

ITEM # \_\_\_\_\_

**SEMINOLE COUNTY GOVERNMENT  
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION  
AGENDA MEMORANDUM**

**SUBJECT:** SR46/LAKE FOREST REZONE A-1 TO PUD

**DEPARTMENT:** Planning & Development **DIVISION:** Planning

**AUTHORIZED BY:** Tony Walter **CONTACT:** Tony Walter *TW* **EXT.** 7375

**Agenda Date** 09/07/05    **Regular** ☐    **Work Session** ☐    **Briefing** ☐  
**Special Hearing – 6:00** ☐    **Public Hearing – 7:00** ☒

**MOTION/RECOMMENDATION:**

1. Recommend APPROVAL of the request to rezone a 42.55 acre tract, located on the north side of SR46, across from International Parkway, from A-1 (Agriculture District) to PUD (Planned Unit Development) per the attached staff report, preliminary master plan and development order, (Robert Hattaway, applicant); or
2. Recommend DENIAL of the request to rezone a 42.55 acre tract, located on the north side of SR46, across from International Parkway, from A-1 (Agriculture District) to PUD (Planned Unit Development), (Robert Hattaway, applicant); or
3. CONTINUE the item to a time and date certain.

District 5 – Commissioner Carey      Tony Walter, Assistant Planning Manager

**BACKGROUND:**

The applicant, Robert J. Hattaway, requests the rezoning of a 42.55 acre tract, located on the north side of SR46, across from International Parkway, from A-1 (Agriculture District) to PUD (Planned Unit Development). The proposed development includes up to 282 townhomes at a maximum density of 10.0 dwelling units per net buildable acre and 6 commercial tracts adjacent to SR46 with equivalent C-2 commercial uses.

The proposed PUD zoning is compatible with the Future Land Use Designation of HIP-TI. The property is adjacent to existing single family and the proposed townhouse use may be found as an adequate transitional use. However none of the property is being planned or set aside to provide for Target Industry uses the main purpose of the HIP-TI land use designation. The commercial tracts along SR 46 may be deemed to meet the definition of infill

Reviewed by:  
Co Atty: MR  
DFS: \_\_\_\_\_  
OTHER: \_\_\_\_\_  
DCM: \_\_\_\_\_  
CM: \_\_\_\_\_

File No. Z2005-038

commercial uses contained in the HIP-TI district (Page FLU 80, "Uses" E).

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the request to rezone a 42.55 acre tract, located on the north side of SR46, across from International Parkway, from A-1 (Agriculture District) to PUD (Planned Unit Development) per the attached staff report, preliminary master plan and subject to the following condition in the attached Development Order.

1. Permitted and special exception uses shall be limited to the provisions of the C-2 districts except that the following uses shall be prohibited:
  - Communications towers
  - Outdoor advertising signs
  - Automobile sales
2. Any residential development on the property shall be subject to R-3A development standards and limited to a maximum of 10 units per net buildable acre.
3. Nonresidential building height shall be limited to 35 feet.
4. Active/Passive buffer requirements including a 6' masonry wall is required along the north property line adjacent to the single family residential to the north.

**ATTACHMENTS:**

Staff report  
Location Map  
Future Land Use/Zoning Maps  
Plat Map  
Aerial Photograph  
Preliminary Master Plan  
Ordinance  
Development Order

## SR46/LAKE FOREST RE4ZONE A-1 TO PUD

REQUEST INFORMATION	
APPLICANT	Robert Hattaway
PROPERTY OWNER	Robert Hattaway
REQUEST	Rezone from A-1 (Agricultural District) to PUD (Planned Unit Development)
HEARING DATE(S)	P&Z September 7, 2005; BCC October 25, 2005
PARCEL NUMBER	30-19-30-300-0010-0000
LOCATION	North of SR46, across from International Parkway
FUTURE LAND USE	HIP-TI
FILE NUMBER	Z2005-038
COMMISSION DISTRICT	5 – Carey

### OVERVIEW:

The site is currently vacant. The applicant, Robert J. Hattaway, requests the rezoning of a 42.55 acre tract, located on the north side of SR46, across from International Parkway, from A-1 (Agriculture District) to PUD (Planned Unit Development). The proposed development includes up to 282 townhomes at a maximum density of 10.0 dwelling units per net buildable acre and 6 commercial tracts adjacent to SR46 with equivalent C-2 commercial uses.

The applicant notes that the proposal is consistent with the commercial and residential development to the east (Northwest Oregon PUD) which also allows commercial and townhouses. The applicant believes the precedent has been set for townhome and commercial uses by the adjacent property owners.

### EXISTING LAND USES:

(West)	(North)			(East)
	PD SF residential PUD	PD SF residential PUD	PD SF residential PUD	
	PD Commercial PUD	HIP-TI Subject Property Vacant A-1	HIP-TI Vacant PUD	
	SE SF residential A-1	HIP-TI Vacant PCD	OFF Vacant A-1	
(South)				

\***Bold** text depicts future land use designation, plain text depicts use, and *italicized* text depicts zoning district. See enclosed future land use and zoning maps for more details.

## SITE ANALYSIS

### Facilities and Services:

Adequate facilities and services must be available concurrent with the impacts of development. If required by the concurrency review, additional facilities and services will be identified.

The following table depicts the approximate impact the proposed development has on public facilities:

Public Facilities	Existing Zoning (A-1)	Proposed Development*	Net Impact
Water (GPD)	14,700	60,000	45,300
Sewer (GPD)	14,700	60,000	45,300
Traffic (ADT)	399	7,200	6,801
Schools			
Elementary	10.0	26.0	16.0
Middle	5.0	9.5	4.5
High	7.0	13.5	6.5

\*Proposed development on straight zoning is based on maximum units permitted using gross acreages.

**Compatibility with Surrounding Development:** The PUD zoning is compatible with the Future Land Use Designation of HIPTI. The property is adjacent to existing single family and the proposed townhouse use may be found as an adequate transitional use per FLU policy 5.6 A and B of the Vision 2020 Plan. However none of the property is being planned or set aside to provide for Target Industry uses which is the main purpose of the HIP-TI land use designation. The Commercial Tracts along SR 46 may be deemed to meet the definition of infill commercial uses contained in the HIP-TI district (Page FLU 80, "Uses" E).

The site is located in the Northwest Service Area, where water capacity for new development is limited. Capacity availability for this project is determined during the Concurrency process.

**Compliance with Environmental Regulations:** At this time the applicant is seeking approval of a St. John's River Water Management District Environmental Resources Permit for any proposed wetland impacts and associated mitigation. A Conservation Easement dedicated to Seminole County is required over all post development wetlands and required upland buffers. Future review steps require a listed species survey and environmental permitting through the water management district.

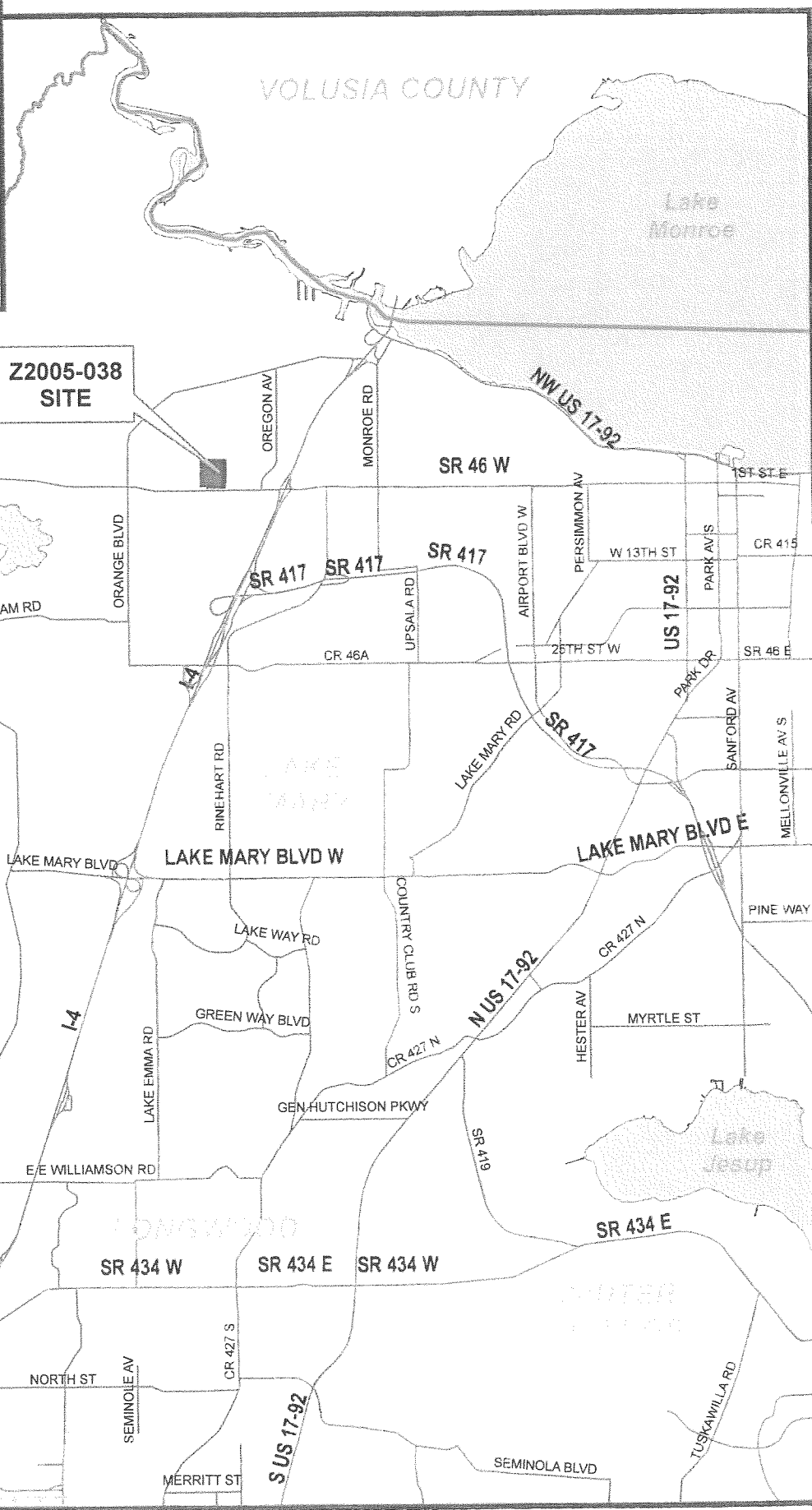
**Intergovernmental Notification:** Staff sent a notice to the Seminole County School Board on August 22, 2005.



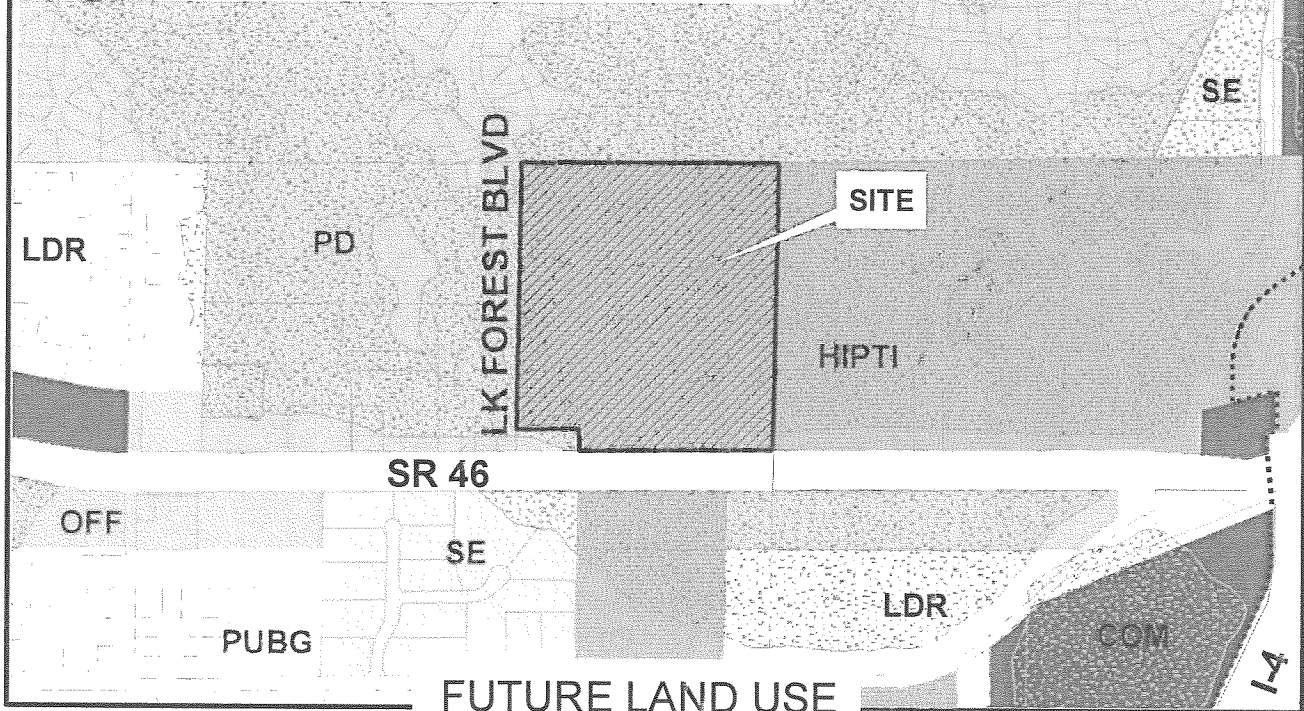
### **STAFF RECOMMENDATIONS:**

Staff recommends approval of the request to rezone 42.55 acres, located on the north side of SR46, across from International Parkway, from A-1 (Agriculture District) to PUD (Planned Unit Development) subject to the following condition in the attached Development Order and limiting the commercial tracts to C-2 uses.

1. Permitted and special exception uses shall be in accordance with the provisions of the C-1 districts except that the following uses shall be prohibited:
  - Communications towers
  - Outdoor advertising signs
  - Automobile sales
2. Any residential development on the property shall be subject to R-3A development standards to a maximum of 10 units per net buildable acre.
3. Nonresidential building height shall be limited to 35 feet.
4. Active/Passive buffer requirements including a 6' masonry wall is required along the north property line adjacent to the single family residential to the north.



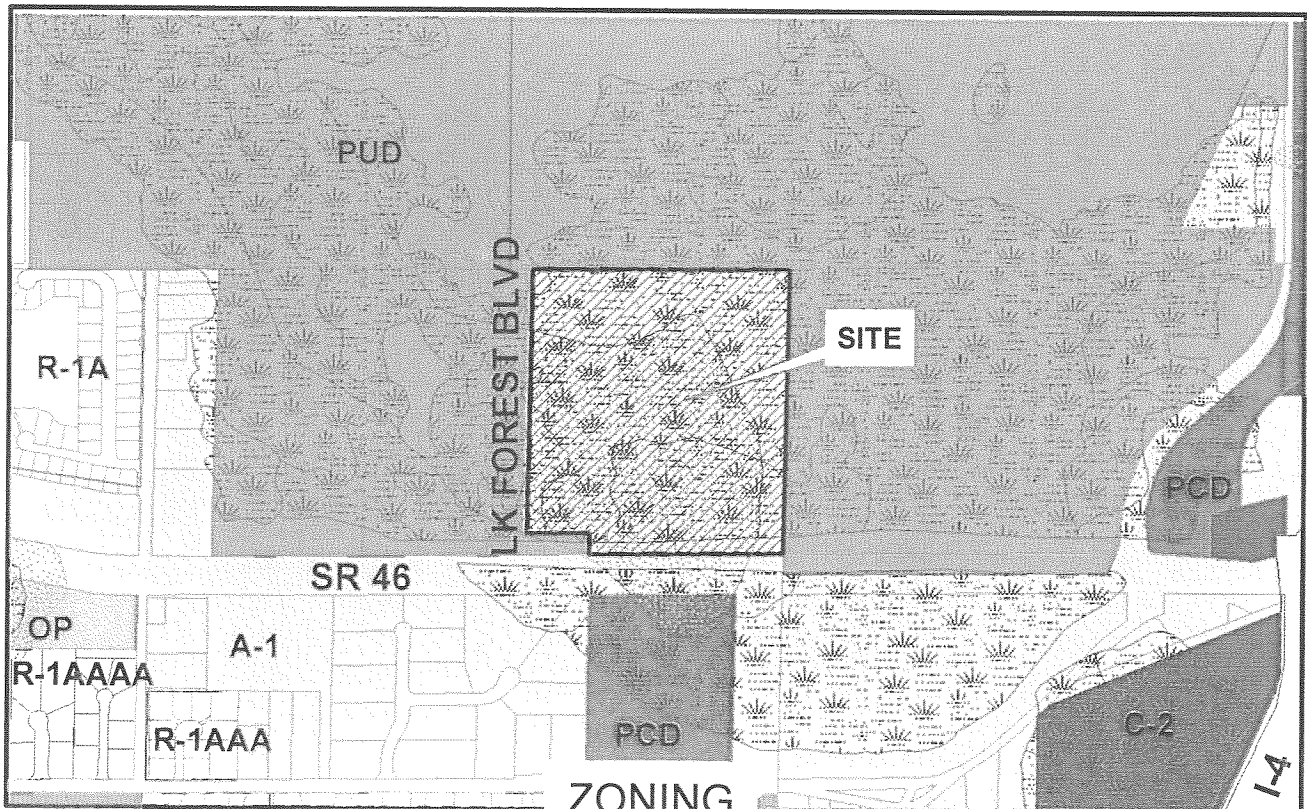
The presence of any wetlands and/or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.  
 \*Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.  
 Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.



Site
  Municipality
  PUBG
  CONS
  LDR
  COM
  OFF
  SE
  PD
  HIPTI

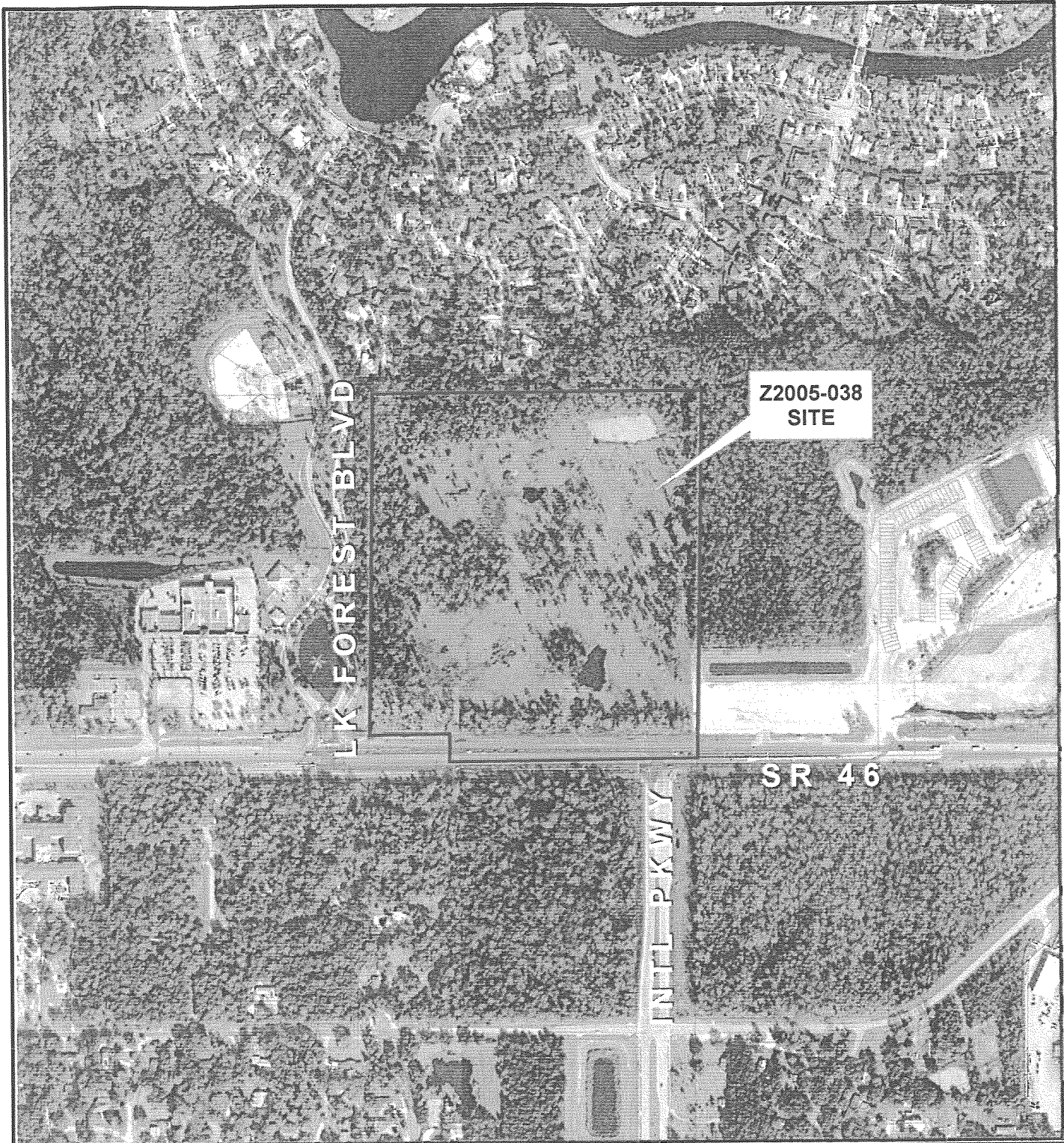
Applicant: Robert Hattaway  
 Physical STR: 30-19-30-300-0010-0000  
 Gross Acres: 44.78 +/- BCC District: 5  
 Existing Use: Agriculture  
 Special Notes: None

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2005-038	A-1	PUD



A-1
  R-1A
  R-1AAA
  R-1AAAA
  OP
  PCD
  C-2
  PUD



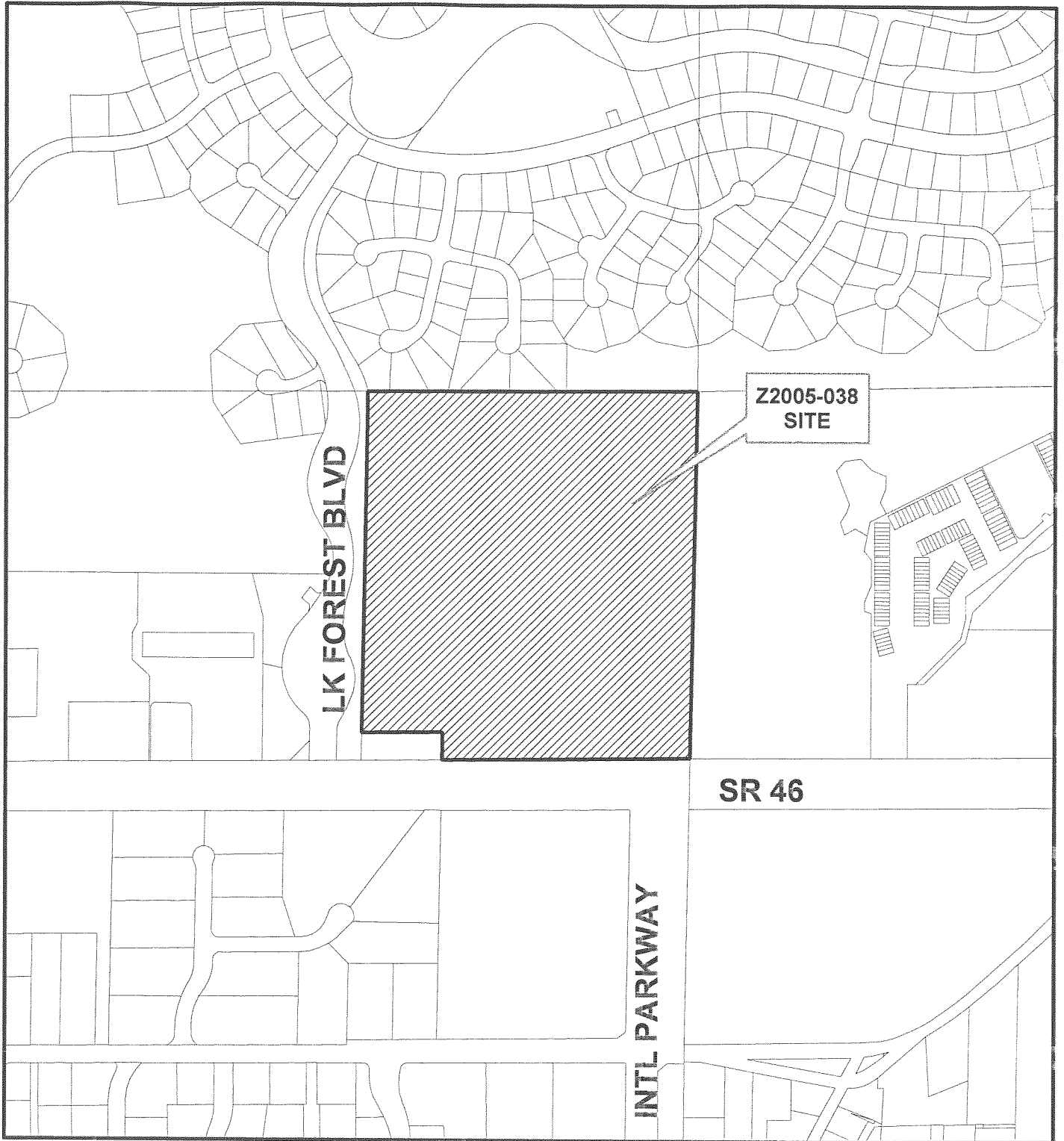


Rezone No: Z2005-038  
From: A-1 To: PUD

☐ Parcel  
☒ Subject Property



January 2004 Color Aerials



AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY; ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 (AGRICULTURE) ZONING CLASSIFICATION THE PUD (PLANNED UNIT DEVELOPMENT DISTRICT) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

**Section 1. LEGISLATIVE FINDINGS.**

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled "SR46/Lake Forest Rezone."

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

**Section 2. REZONINGS.** The zoning classification assigned to the following described property is changed from A-1 (Agriculture) to PUD (Planned Unit Development District):

**The Northeast ¼ of the Northeast ¼ of Section 30, Township 19 South, Range 30 East, Seminole County, Florida AND;**

**The Southeast ¼ of the Northeast ¼ of Section 30, Township 19 South, Range 30 East, Seminole County, Florida, lying North of State Road No. 46. Less the West 320.00 feet thereof.**

**The whole containing 42.55 acres, more or less**

**Section 3. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County

Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 4. EFFECTIVE DATE.** A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective upon filing with the Department of State.

ENACTED this 25th day of October, 2005

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Carlton D. Henley  
Chairman

**SEMINOLE COUNTY DEVELOPMENT  
ORDER**

On October 25, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit A.

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

**FINDINGS OF FACT**

**Property Owner:** ROBERT J. HATTAWAY

**Project Name:** SR46/LAKE FOREST PUD

**Requested Development Approval:** Rezone from A-1 to PUD

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: TONY WALTER  
1101 East First Street  
Sanford, Florida 32771



**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

- (1) The aforementioned application for development approval is **GRANTED**.
- (2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.
- (3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:
  1. Permitted and special exception uses shall be limited to the provisions of the C-2 districts except that the following uses shall be prohibited:
    - Communications towers
    - Outdoor advertising signs
    - Automobile sales
  2. Any residential development on the property shall be subject to R-3A development standards and limited to a maximum of 10 units per net buildable acre.
  3. Nonresidential building height shall be limited to 35 feet.
  4. Active/Passive buffer requirements including a 6' masonry wall is required along the north property line adjacent to the single family residential to the north.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

**Done and Ordered on the date first written above.**

By: \_\_\_\_\_  
Carlton D. Henley  
Chairman  
Board of County Commissioners

**OWNER'S CONSENT AND COVENANT**

**COMES NOW**, ROBERT J. HATTAWAY, on behalf of herself and her successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Robert J. Hattaway

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

**STATE OF FLORIDA**

**COUNTY OF SEMINOLE**

**I HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared SHIRLEY T. ALEXANDER, and is personally known to me or who has produced \_\_\_\_\_ as identification and who acknowledged and executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

**EXHIBIT A**

**Project Legal Description:**

**The Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 30, Township 19 South,  
Range 30 East, Seminole County, Florida AND;**

**The Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 30, Township 19 South,  
Range 30 East, Seminole County, Florida, lying North of State Road No. 46.  
Less the West 320.00 feet thereof.**

**The whole containing 42.55 acres, more or less**



# LAKE FOREST

MASTER COMMUNITY ASSOCIATION

August 28, 2005

Mr. Tony Walter  
Assistant Planning Manager  
Planning and Development Department  
Seminole County  
1101 East First Street  
Sanford, FL 32771-1468

Re: Rezoning Application Z2005-038, Robert Hattaway, SR46/Lake Forest Blvd PUD

Dear Mr. Walter:

The residents of Lake Forest are very concerned about Rezoning Application Z2005-038 by Mr. Robert Hattaway in which he proposes to completely clear and fill wetlands bordering Lake Forest to allow the construction of 282 townhomes and 6 commercial buildings. Our consultant biologist believes there are significant negative environmental impacts associated with this project that cannot be mitigated with offsite mitigation. Our consultant hydrologist feels there are hydrological issues associated with filling this 100 year floodplain at the bottom of a roughly one square mile drainage basin that have not been adequately addressed. We believe that this development as proposed is not compatible with the area and will have a negative impact on Lake Forest. We are proposing for your consideration a more reasonable approach to developing this site that will allow some development while reducing the impacts of development to what we believe is an acceptable risk level.

## **Our Environmental Concerns:**

Mr. Hattaway's proposal is to clear and fill 42.5 acres of an approximate 128.5 acre wetland system that is also a 100 year floodplain. The remaining 86 acres of this system are now intentionally preserved in conservation areas bordering the Hattaway property on the west, east and partially on the north sides. This 100 year floodplain wetland area is shown on the attached FEMA map in Enclosure 1 and the USGS maps in Enclosures 2 and 3.

We feel that preserving this wetland system in conservation areas is as important today as it was when conservation areas that make up the remainder of this wetland floodplain were preserved when the NW Oregon and Lake Forest subdivisions were approved by Seminole County.

The site is an integral part of a larger regional wetland, drainage, groundwater recharge, and ecological system that should be left intact. Intrusion into this wetland system has



# LAKE FOREST

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## MASTER COMMUNITY ASSOCIATION

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been minimized for the other developments that have gone in around it and it has remained preserved, other than the land clearing and pond excavation done on the Hattaway property (without the required permits). We believe that this wetland system is of more value to the environment of Seminole County and to the St Johns River basin than 70 units purchased in the Colbert Cameron mitigation site on the east side of Lake Harney as proposed by Mr. Hattaway. This is substantiated by the attached letter (Enclosure 4) from the National Marine Fisheries Service recommending denial of Mr. Hattaway's Army Corps of Engineers permit application for this site.

Mr. Hattaway's proposal will completely sever what is now a functioning wetland system that is used by Florida Black Bears for denning and sandhill cranes for nesting. In the attached letter (Enclosure 5) from the Florida Fish and Wildlife Conservation Commission, the Hattaway property is described as an important habitat for Florida Black bears located in the primary and secondary range for the bears. With the close proximity of the Black Bear Wilderness Area to the northwest, the site will always be inhabited by bears and continue to be used for denning. An aerial photo marked to show the locations of 80 bear sightings in Lake Forest is attached as Enclosure 6. As Florida becomes more populated and more roads are built or multi-laned such as is proposed for SR40 through Ocala National Forest, the bears at this site will be no more at risk crossing roads than anywhere else. With their extensive roaming range of up to 66 square miles they will be crossing roads wherever they are.

It should be noted that the proposed Colbert Cameron mitigation site is not within the primary range of Florida Black Bears. At the Colbert Cameron site, there are wetlands stretching to the horizon. Clearly, adding a small percentage of wetlands to the Colbert Cameron site will be of much less ecological value than preserving the center of an existing wetland system, the remainder of which is already preserved in conservation areas.

Reviews by Gary Exner, the biologist retained by Lake Forest, of the ecological reports submitted by Mr. Hattaway's Consultant are attached in Enclosures 7, 8, and 9.

### **Flooding Concerns:**

Almost the entire Hattaway site lies within the 100 year floodplain shown on the FEMA map in Enclosure 1. As noted in the "Monroe Basin Engineering Study and Drainage Inventory Update" prepared for Seminole County by Camp Dresser McKee in 2002, the site receives stormwater runoff from SR46 and an approximate one square mile area



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south of SR46. The Hattaway site is at the bottom of this drainage basin. The Land Development Plans proposed by Mr. Hattaway call for filling this wetland area to a height of as much as 8 feet above the surrounding land and adjacent yards in Lake Forest.

Lake Forest has retained the services of a hydrologist (John Loper of SDI Environmental) to review the Hattaway proposals. His findings are attached in Enclosure 10. As a result of his findings that "there are significant omissions in the permit application and -----that the application does not provide reasonable assurances that the proposed activities will not cause adverse flooding to offsite property ---", the Hattaway consultant has revised the AdiCPR drainage calculations several times and is currently revising them again. At this time, it is clear that the hydrology of the area south of SR46 is not defined in enough detail to accurately model the stormwater flows to and through the Hattaway wetlands.

An example of the difficulty in modeling stormwater flow in this floodplain is the \$12,000,000 lawsuit that the Florida DOT lost in 1998 for flooding the property adjacent to the east side of the Hattaway property. Who will be liable if Lake Forest floods as a result of filling more of this same floodplain?

We ask that you review this application prior to sending it to the Planning and Zoning Commission versus the requirements of Appendix B of the Seminole County Land Development Code, "Surface Water Management Standards" that says the following regarding development within flood prone areas:

*Protection of flood prone areas is vital to surface water management. Unrestricted development in the floodplain can cause an increase in the risk to life and property. Floodplain encroachment can cause an increase in flood height, flow velocity, rate of rise and duration of flooding. It can also pose a potential hazard by contributing to the sediment and building materials which may be swept downstream by flood waters. Therefore, the protection and preservation of flood prone areas has become an important criteria for development.*

*Developments which contain flood prone lands shall not cause an impact on the existing flooding characteristics. **Floodplains shall be maintained hydrologically in their natural state and protected with a Conservation Easement.***



# LAKE FOREST

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Since the Hattaway property is almost entirely within a floodplain, we ask: Does the Land Development Code prohibit him from doing anything other than maintaining it hydrologically in its natural state and must it be "protected with a Conservation Easement"?

### **Compatibility Concerns:**

We believe that construction of high density multiunit townhome buildings adjacent to Lake Forest will have a negative effect on our property values and on traffic at the entrance to Lake Forest. Two story townhomes with 6 units per building would be completely out of character with the large single family homes next to them in Lake Forest. The many "U"-Turns that will be made at the light at Lake Forest Blvd resulting from the "right turn out only" at the entrance to the 282 townhomes and commercial businesses will be an additional hazard added to this already dangerous intersection.

### **Other Concerns:**

In evaluating Mr. Hattaway's rezoning request we ask that you also consider the actions that the St Johns Water Management District (SJRWMD), the US Army Corps of Engineers (ACOE) and the EPA are taking regarding the dredging and filling of wetlands on his property that was done without the required permits. SJRWMD has issued a Consent Order and the ACOE has issued a Cease and Desist Order. The ACOE has suspended review of his application pending resolution of his case. We have been told that enforcement for the ACOE will be by the EPA in Atlanta. A copy of the Cease and Desist Order is attached in Enclosure 11 and Mr. Hattaway's response to the Cease and Desist Order in Enclosure 12. It should be noted his response states that he sold timber from the lot in 1989 and that there has been no additional timbering or mechanical clearing of this property since this transaction transpired. Yet he included an invoice dated July 24, 1998 for \$14,312.50 for "Shear and clear cut where possible using a John Deere 643 Feller Buncher". Aerial photos from 1995 and 1999 also show that the property was extensively cleared sometime between 1995 and 1999.

Mr. Hattaway is an experienced land developer. He has been in the land development business a long time and coupled with his experience as a state legislator and as Chairman of the Greater Orlando Aviation Authority he should be thoroughly knowledgeable of the rules and regulations regarding wetlands in the state of Florida.





# LAKE FOREST

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### **A More Reasonable Approach:**

We believe that Mr. Hattaway's proposed development can be redesigned to preserve the "natural" environment in this area of Seminole County, preserve the existing habitat of the black bears and sandhill cranes, eliminate the increased flooding potential to Lake Forest, be compatible to Lake Forest and still allow some development. We believe that the wetlands on the Hattaway property lying between the existing conservation area wetlands must be preserved to maintain the ecological and hydrological integrity of the wetland system. Preserving this connection between the existing conservation areas will preserve approximately 25 acres of the wetlands in a conservation area on the Hattaway property as shown on the attached marked aerial photo in Enclosure 13. This will allow development on approximately 17 acres of land on the south side of the floodplain along SR46 similar to the NW Oregon development on the east side and the Publix Shopping Center on the west side. It should be noted that only a very small portion of the NW Oregon and Publix Shopping Center sites were located in the 100 year floodplain when their development plans were approved, while most of the Hattaway site is in the 100 year floodplain.

### **In Summary:**

When evaluating this rezoning application we ask that you base your decision on sound ecological and hydrological reasoning and remember the protected species inhabiting this area that help to make Seminole County "Florida's Natural Choice".

Please contact me at 407-322-2318, Jerry Schwartzberg at 407-302-9272, or Steve Devine at 407-330-9598 if you have any questions or need any additional information.

Sincerely,



Bob Manuel,

Co-Chairman, Lake Forest Homeowners Association Transition Committee



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MASTER COMMUNITY ASSOCIATION

Mr. Tony Walter

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Copy To:

1. Brenda Carey, Commissioner, District 5, Board of County Commissioners, Seminole County Florida
2. Carlton D. Henley, Commissioner, District 4, Board of County Commissioners, Seminole County Florida
3. Dick Van Der Weide, Commissioner, District 3, Board of County Commissioners, Seminole County Florida
4. Randall C. Morris, Commissioner District 2, Board of County Commissioners, Seminole County Florida
5. Bob Dallari, Commissioner, District 1, Board of County Commissioners, Seminole County Florida
6. Ben Tucker, Chairman, Seminole County Planning and Zoning Commission
7. J. Kevin Grace, Manager, Seminole County
8. Don Fisher, Deputy County Manager, Seminole County
9. Gary Johnson, Public Works Director, Seminole County
10. Michael E. Arnold, Manager, Roads - Storm Water Division, Seminole County
11. Jerry McCollum, County Engineer, Seminole County
12. Mark E. Flowmerfelt, Manager, Stormwater Programs, Seminole County
13. Mahmoud Najda, Manager, Development Review Division, Planning and Development Department, Seminole County
14. Thomas Radzai, Senior Engineer, Development Review Division, Planning and Development Department, Seminole County.
15. Wendy Meyer, Natural Resources Officer, Environmental Compliance, Development Review Division, Planning and Development Department, Seminole County.
16. Anthony Miller, Senior Regulatory Scientist, Department of Water Resources, St Johns Water Management District
17. Mr. Stephen Brooker, Department of the Army, Jacksonville Corps of Engineers, Cocoa Regulatory Office.
18. Haynes Johnson, Regulatory Program Manager, Wetlands Regulatory Section, U.S. Environmental Protection Agency, Atlanta, Georgia

Enclosures:

1. FEMA 100 Year Floodplain Map, DRMP Figure 3, dated October 2004, Showing Location of Hattaway Property in the 100 Year Floodplain.
2. USGS Quad Map 3911, DRMP Figure 1, Topo Map Showing Hattaway Project Location



# LAKE FOREST

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3. Topographic Map From USGS Geodata.gov Web Site, dated 5/2/05, With Hattaway Site Location Penciled In.
4. Letter from Miles M. Croom, Assistant Regional Administrator, Habitat Conservation Division, United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service to Colonel Robert M. Carpenter, District Engineer, Jacksonville District Corps of Engineers dated April 25, 2005.
5. Letter from Stephanie L. Simek, Bear Management Program Coordinator, Florida Fish and Wildlife Conservation Commission to Anthony Miller, St Johns River Water Management District, dated August 17, 2005.
6. Aerial Photo from Seminole County Property Appraisers Office Marked to Show Bear Sighting Locations in and Around the Hattaway Property.
7. Letter with Attached Executive Summary from Gary Exner of Advantage Consulting, LLC to Robert Manuel dated May 12, 2005, "Lake Forest HOA Ecological Assessment and Permit Review Summary"
8. Letter From Gary Exner of Advantage Consulting, LLC to Anthony Miller (SJRWMD) dated June 22, 2005, Review of Environmental Assessment by Bio-Tech Consulting Inc.
9. Letter From Gary Exner of Advantage Consulting, LLC to Fred Bates dated July 29, 2005, "Responses to DRMP 7/22/05 Report to SJRWMD"
10. Letter from John Loper of SDI Environmental to Fred Bates dated May 11, 2005, "Review of Stormwater and Floodplain Information for the Proposed Hattaway Development, Seminole County, FL."
11. Cease and Desist Order dated July 11, 2005 from Robert M. Carpenter, Colonel, U.S. Army, Jacksonville District Corps of Engineers issued to Bob Hattaway.
12. Response to Cease and Desist Order from Doug Skurski of DRMP to Teresa Frame, U.S. Army Corps of Engineers, dated July 22, 2005.
13. Aerial Photo from the Seminole County Property Appraisers Office with the Existing and Proposed Hattaway Conservation Easements Marked on it.



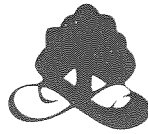
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MASTER COMMUNITY ASSOCIATION

Mr. Tony Walter  
Page 6 of 7  
August 28, 2005

Enclosures:

1. FEMA 100 Year Floodplain Map, DRMP Figure 3, dated October 2004, Showing Location of Hattaway Property in the 100 Year Floodplain.
2. USGS Quad Map 3911, DRMP Figure 1, Topo Map Showing Hattaway Project Location
3. Topographic Map From USGS Geodata.gov Web Site, dated 5/2/05, With Hattaway Site Location Penciled In.
4. Letter from Miles M. Croom, Assistant Regional Administrator, Habitat Conservation Division, United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service to Colonel Robert M. Carpenter, District Engineer, Jacksonville District Corps of Engineers dated April 25, 2005.
5. Letter from Stephanie L. Simek, Bear Management Program Coordinator, Florida Fish and Wildlife Conservation Commission to Anthony Miller, St Johns River Water Management District, dated August 17, 2005.
6. Aerial Photo from Seminole County Property Appraisers Office Marked to Show Bear Sighting Locations in and Around the Hattaway Property.
7. Letter with Attached Executive Summary from Gary Exner of Advantage Consulting, LLC to Robert Manuel dated May 12, 2005, "Lake Forest HOA Ecological Assessment and Permit Review Summary"
8. Letter From Gary Exner of Advantage Consulting, LLC to Anthony Miller (SJRWMD) dated June 22, 2005, Review of Environmental Assessment by Bio-Tech Consulting Inc.
9. Letter From Gary Exner of Advantage Consulting, LLC to Fred Bates dated July 29, 2005, "Responses to DRMP 7/22/05 Report to SJRWMD"
10. Letter from John Loper of SDI Environmental to Fred Bates dated May 11, 2005, "Review of Stormwater and Floodplain Information for the Proposed Hattaway Development, Seminole County, FL."
11. Cease and Desist Order dated July 11, 2005 from Robert M. Carpenter, Colonel, U.S. Army, Jacksonville District Corps of Engineers issued to Bob Hattaway.
12. Response to Cease and Desist Order from Doug Skurski of DRMP to Teresa Frame, U.S. Army Corps of Engineers, dated July 22, 2005.
13. Aerial Photo from the Seminole County Property Appraisers Office with the Existing and Proposed Hattaway Conservation Easements Marked on it.



# LAKE FOREST

MASTER COMMUNITY ASSOCIATION

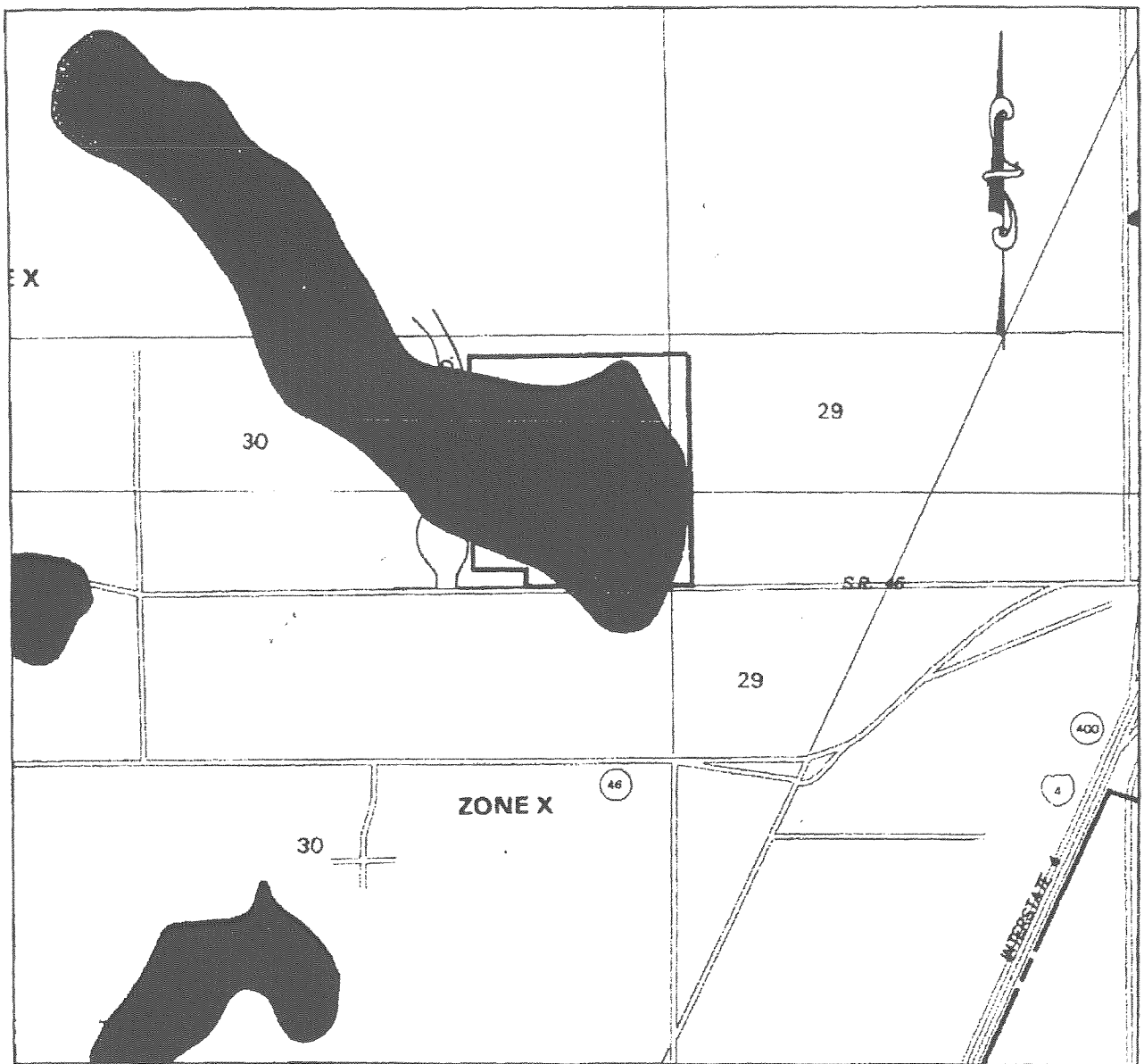
Mr. Tony Walter

Page 7 of 7

August 28, 2005

Copy To:

1. Brenda Carey, Commissioner, District 5, Board of County Commissioners, Seminole County Florida
2. Carlton D. Henley, Commissioner, District 4, Board of County Commissioners, Seminole County Florida
3. Dick Van Der Weide, Commissioner, District 3, Board of County Commissioners, Seminole County Florida
4. Randall C. Morris, Commissioner District 2, Board of County Commissioners, Seminole County Florida
5. Bob Dallari, Commissioner, District 1, Board of County Commissioners, Seminole County Florida
6. Ben Tucker, Chairman, Seminole County Planning and Zoning Commission
7. J. Kevin Grace, Manager, Seminole County
8. Don Fisher, Deputy County Manager, Seminole County
9. Gary Johnson, Public Works Director, Seminole County
10. Michael E. Arnold, Manager, Roads - Storm Water Division, Seminole County
11. Jerry McCollum, County Engineer, Seminole County
12. Mark E. Flowmerfelt, Manager, Stormwater Programs, Seminole County
13. Mahmoud Najda, Manager, Development Review Division, Planning and Development Department, Seminole County
14. Thomas Radzai, Senior Engineer, Development Review Division, Planning and Development Department, Seminole County.
15. Wendy Meyer, Natural Resources Officer, Environmental Compliance, Development Review Division, Planning and Development Department, Seminole County.
16. Anthony Miller, Senior Regulatory Scientist, Department of Water Resources, St Johns Water Management District
17. Mr. Stephen Brooker, Department of the Army, Jacksonville Corps of Engineers, Cocoa Regulatory Office.
18. Haynes Johnson, Regulatory Program Manager, Wetlands Regulatory Section, U.S. Environmental Protection Agency, Atlanta, Georgia



ZONE A - AREAS INUNDATED BY 100-YEAR FLOOD



**DRMP**  
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS  
Certificate of Authorization No. 2648

1505 East Colonial Drive - Orlando, Florida 32803

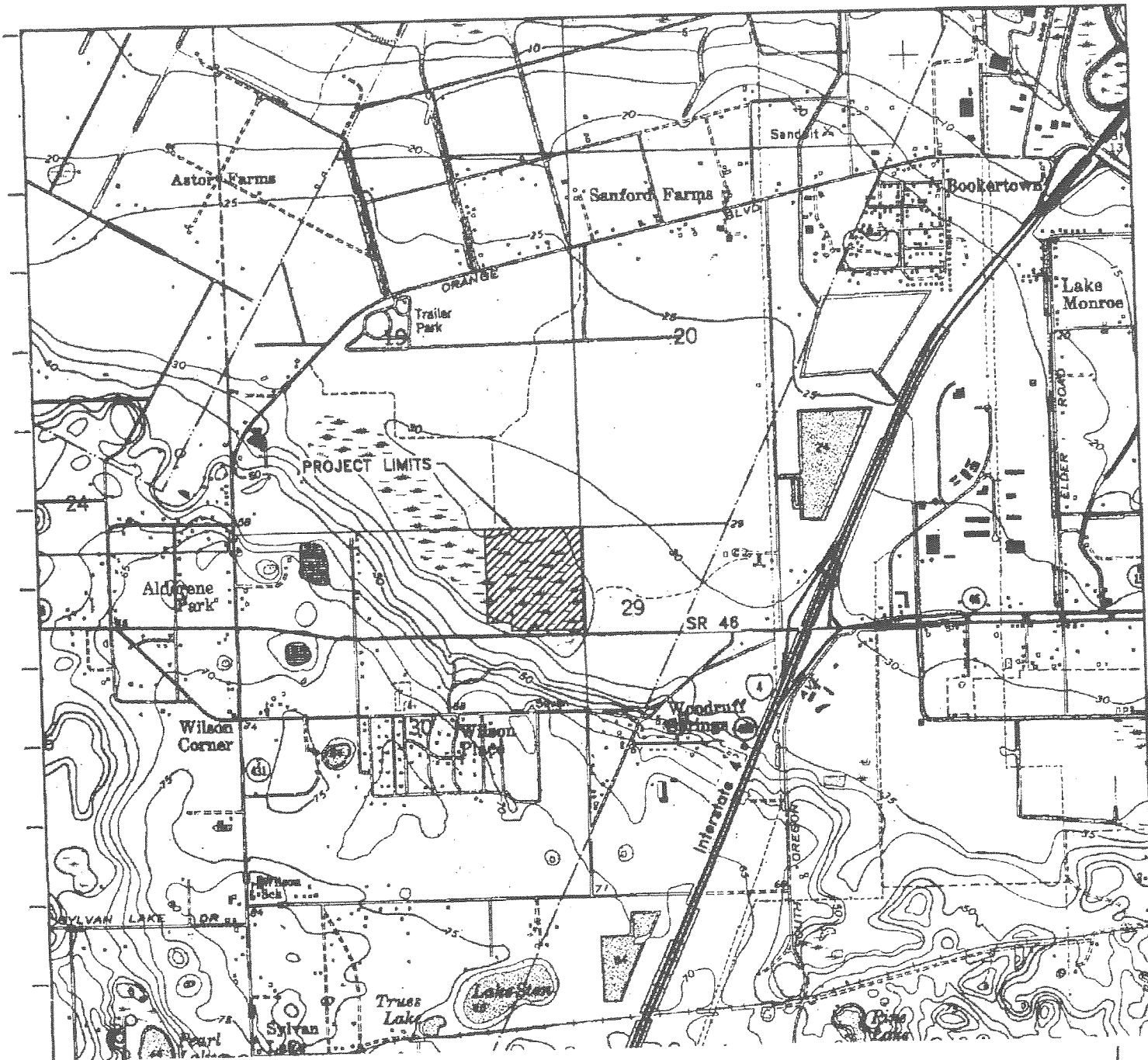
FEMA Map

HATTAWAY S.R. 46 PROPERTY

SEMIHOLE COUNTY,

PROJECT NO.  
04-0014.000  
DATE  
OCTOBER, 2004  
SCALE  
1"=1000'  
FIGURE 3

FLORIDA

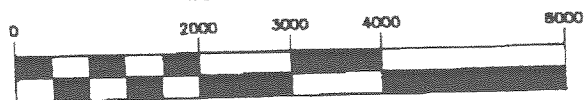


USGS Quad Map 3911 (Sanford)

**Project Location**

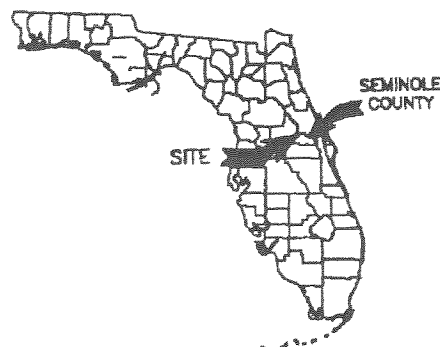
Section: 30  
Township: 19S  
Range: 30E

**GRAPHIC SCALE**



( IN FEET )

1 inch = 2000 ft.



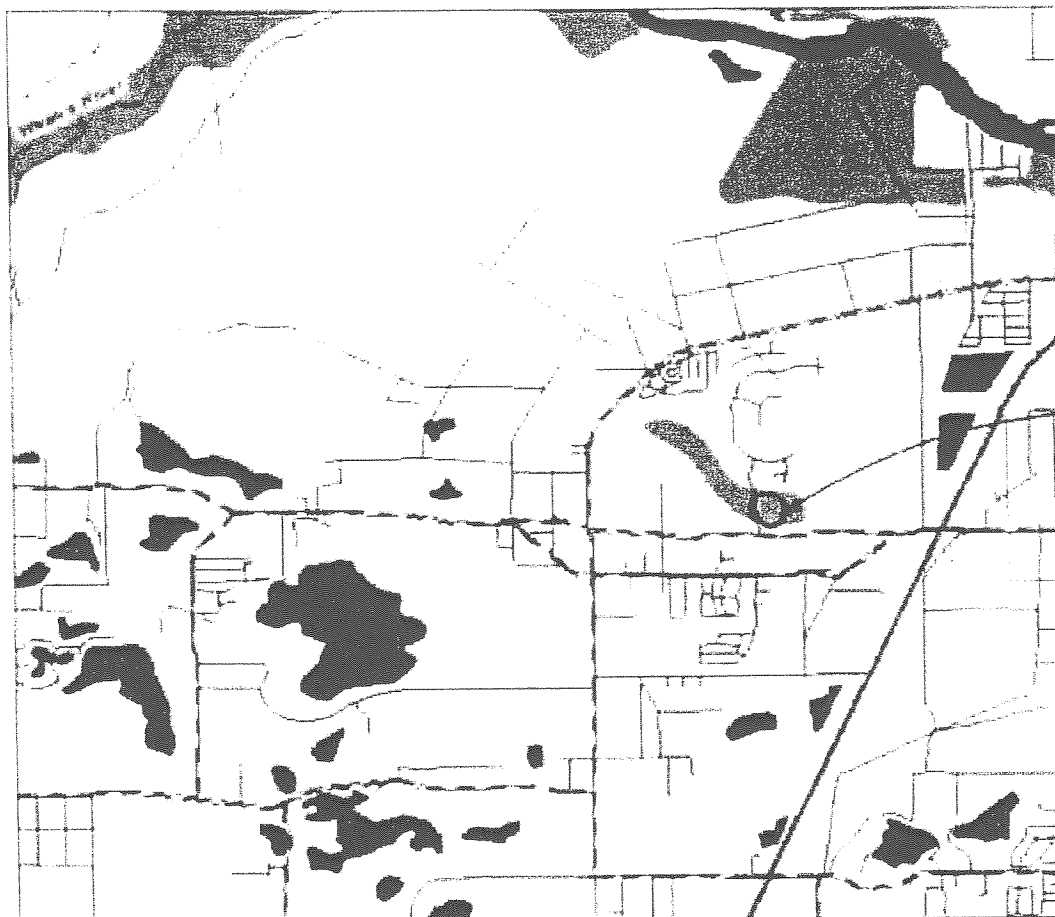
1505 East Colonial Drive - Orlando, Florida 32803

**LOCATION MAP**

**HATTAWAY PROPERTY**  
S.R. 46

SEMINOLE COUNTY, FLORIDA

PROJECT NO.  
04-0014.000  
DATE  
OCTOBER 2004  
SCALE  
1" = 2000'  
Figure 1

Hattaway  
Site

- [illegible]





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office  
263 13<sup>th</sup> Avenue S.  
St. Petersburg, Florida 33701

April 19, 2005

Colonel Robert M. Carpenter  
District Engineer  
Department of the Army  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, Florida 32232-0019

**RECEIVED**

APR 25 2005

JACKSONVILLE DISTRICT  
USACE

Dear Colonel Carpenter:

NOAA's National Marine Fisheries Service (NMFS) has reviewed permit application number SAJ-2005-247 (IP-TSB) dated March 21, 2005, and received on March 31, 2005. The applicant, Hattaway Property, is seeking authorization to construct a residential and commercial development in Seminole County, Florida. Project plans call for elimination, by filling, of all 35.92 acres of wetlands on the project site. Onsite wetlands are hydrologically connected to the upper the St. Johns River watershed. As compensatory mitigation for wetland impacts the applicant proposes to purchase 54 credits from the Colbert-Cameron Mitigation Bank.

A NMFS biologist visited the project site on April 12, 2005. Based on observations at the site, we generally concur with the habitat characterization as provided in the notice. The site supports palustrine, semipermanently-flooded, mature, forested wetlands, that would be permanently impacted by the proposed work. Canopy species found at the site include slash pine (*Pinus elliotii*), bald cypress (*Taxodium distichum*), black gum, (*Nyssa sylvatica*), red maple (*Acer rubrum*), oaks (*Quercus* spp.), sweetbay (*Magnolia virginiana*), and sweetgum (*Liquidambar styraciflua*). The understory is dominated by wax myrtle (*Myrica cerifera*), dahoon holly (*Ilex cassine*), fetterbush (*Lyonia lucida*), royal fern (*Osmunda regalis*), and cinnamon fern (*Osmunda cinnamomea*).

Forested wetlands within this watershed provide water quality and trophic functions that benefit downstream estuarine waters. These functions include removal of sediment, excess nutrients, and contaminants. When flooded, these wetlands contribute plant material and other useable nutrients (both dissolved and particulate organic matter) into aquatic food webs that include recreationally, commercially, and ecologically important species. A detailed discussion of palustrine forested wetlands is found in the publications "The ecology of bottomland hardwood swamps of the Southeast: a community profile" by C.H. Wharton, W.M. Kitchens, E.C. Pendleton, and T.W. Sipe. 1982. U.S. Fish and Wildlife Service, Biological Services Program, Washington, D.C. FWS/OBS-81/37:1-133; and in "Biodiversity of the Southeastern United States: aquatic communities" by C.T. Hackney, S.M. Adams and W.H. Martin. 1992. John Wiley & Sons, Inc., NY. 779 pp.

Although Federally managed fishery resources may not be present within the project site's palustrine wetlands, they are common residents in associated waters of St. Johns River. By way of water quality maintenance and trophic input, project site wetlands support and sustain downstream



Mr. Tony Walter April 28, 2005 [unclear]

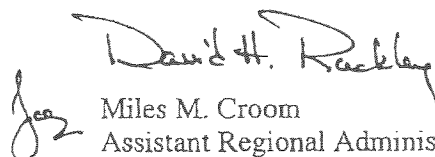
essential fish habitat (EFH), as identified by the South Atlantic Fishery Management Council (SAFMC). These categories include palustrine emergent and forested wetlands. Federally managed species which utilize these wetland types downstream include post-larvae, subadult, and adult white shrimp (*Litopenaeus setiferus*), pink shrimp (*Farfantepenaeus duorarum*), and brown shrimp (*Farfantepenaeus aztecus*), and subadults of red drum (*Sciaenops ocellata*) and cobia (*Rachycentron canadum*). These same wetlands also provide cover and spawning habitat for important prey species that are consumed by other Federally managed species. These prey species include Atlantic menhaden (*Brevoortia tyrannus*), striped mullet (*Mugil cephalus*), grass shrimp (*Palaemonetes* spp.), and others. Detailed information on federally managed fisheries and EFH is provided in the 1998 comprehensive amendment of the Fishery Management Plans for the South Atlantic Region, prepared by the SAFMC. The 1998 amendment was prepared in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (P.L. 104-297).

Authorization and undertaking the proposed work would result in harm to NMFS trust resources through elimination of wetlands that provide important water quality, trophic, and habitat functions. We further note, based on the intended purpose of the action (construct a commercial and residential subdivision), that authorization of the project may also contravene Section 230.10(a) of the Environmental Protection Agency's Guidelines for Specification of Disposal of Dredged or Fill Material. This section stipulates that discharge of fill material should not be authorized if a less damaging practicable alternative to the proposed discharge is available. Section 230.10(a)(3) of the Guidelines reinforces this perspective through presumption that a practicable alternative exists when the proposed action is non-water-dependent, as in this case. Further we note that the applicant proposes to fill all onsite wetlands and it is obvious that no attempt at avoidance and minimization has been made.

Based on the preceding, NOAA Fisheries recommends that Department of the Army authorization not be granted to the project as proposed. Alternatively, wetland impacts should be avoided to the maximum extent practicable. Any unavoidable wetland impacts should then be offset through compensatory mitigation that would preclude a net loss of wetland functions. Additionally, a permanent 50-foot-wide, or greater, natural upland buffer should be established around all wetlands on the property. Native vegetation in this buffer and all remaining wetlands on the property should be permanently and perpetually preserved and protected from excavation, filling, clearing, or other consumptive uses.

We appreciate the opportunity to provide these comments. Please direct related questions or comments to the attention of Mr. George Getsinger, at our Jacksonville Office. He may be reached at 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216-0958, or at (904) 232-2580 ext. 138.

Sincerely,

  
Miles M. Croom  
Assistant Regional Administrator  
Habitat Conservation Division

**Jeannine Evans**

---

**From:** Anthony Miller  
**Sent:** Wednesday, August 17, 2005 11:16 AM  
**To:** Regulatory Permitting Application Submittal  
**Subject:** Florida Black Bear; Hattaway Properties at SR 46 Conceptual; 4-117-96019-1  
**Importance:** High

-----Original Message-----

**From:** Simek, Stephanie [mailto:Stephanie.Simek@MyFWC.com]  
**Sent:** Wednesday, August 17, 2005 11:07 AM  
**To:** Anthony Miller  
**Cc:** Kenneth John; Glenn Lowe; Victoria Nations  
**Subject:** RE: Florida Black Bear; Hattaway Properties at SR 46 Conceptual; 4-117-96019-1  
**Importance:** High

Hello Mr. Miller,

We have found the location of the Hattaway Properties and pulled up the various layers to identify bear activity.

- 1) There are roadkill along Orange Blvd, SR 46, and I-4 that surround the site.
- 2) There is evidence of female and reproducing female presence **within** the site as well as to the southeast, east, and northeast of the site.
- 3) There is evidence of general bear presence in and all around the site.
- 4) The site is within primary and secondary bear range.
- 5) The site ranks moderate to high on the habitat scale and has moderate to high ranked habitat to the northeast and southeast of the site.
- 6) In addition, the roads adjacent to the site are considered principal roadkill areas using data from 1976-2004. Additional calculated principal roadkill areas are located to the east and southeast of this site.

The Hattaway Properties provide important habitat for bears within the St. Johns and Ocala bear populations (both primary and secondary range). Please review the attached figures and above mentioned information when evaluating the application.

Feel free to contact myself (850-410-0656 ext 17327) or my associate Sandra Jonker (850-410-0656 ext 17328) for additional information or clarification.

Thank you.

-Stephanie

8/17/2005 Mr. Tony Walter, Aug 23, 2005 Enclosure 5

---

Stephanie L. Simek  
Bear Management Program Coordinator  
Florida Fish and Wildlife Conservation Commission  
620 S. Meridian Street  
Tallahassee, FL 32399-1600  
(850) 410-0656 ext 17327  
stephanie.simek @MyFWC.com  
visit us at [www.myfwc.com/](http://www.myfwc.com/)

---

**From:** Anthony Miller [mailto:amiller@sjrwmd.com]  
**Sent:** Wednesday, August 03, 2005 4:12 PM  
**To:** Simek, Stephanie  
**Cc:** Kenneth John; Glenn Lowe; Victoria Nations  
**Subject:** Florida Black Bear; Hattaway Properties at SR 46 Conceptual; 4-117-96019-1

Good Afternoon Ms. Simek,

The site on which I can use your consultation is located on the north side of State Road 46, approximately 1/2 mile west of Interstate 4 in Seminole County. (See [ftp://ftp.sjrwmd.com/pub/96019-1/Location\\_Map.JPG](ftp://ftp.sjrwmd.com/pub/96019-1/Location_Map.JPG)) The site was historically forested and contained a mixed hardwood swamp. In the late 1990's the landowner timbered the site and during the late 90's and early 2000's much of it was converted to improved pasture. (See [ftp://ftp.sjrwmd.com/pub/96019-1/Aerial\\_1995.jpg](ftp://ftp.sjrwmd.com/pub/96019-1/Aerial_1995.jpg); [ftp://ftp.sjrwmd.com/pub/96019-1/Aerial\\_2000.jpg](ftp://ftp.sjrwmd.com/pub/96019-1/Aerial_2000.jpg); [ftp://ftp.sjrwmd.com/pub/96019-1/Aerial\\_2004.jpg](ftp://ftp.sjrwmd.com/pub/96019-1/Aerial_2004.jpg))

Cattle have been maintained on the site since then. During my site reviews for this application, I saw a maximum of three cows on the 40-acre site. The applicant provided documentation that 12 cows were purchased for the site.

During conversion to pasture, the applicant excavated three ponds and a ditch that interconnects two of them. The ponds generally are about 4-6 feet deep with little littoral zone along their margins. The ditches are vegetated with pickerelweed.

The northernmost and westernmost portions of the site still contain forest canopy, although the understory has been thinned significantly by the cattle. These mixed hardwood swamps vary in water depth from 0 to about 1 foot deep. (See [ftp://ftp.sjrwmd.com/pub/96019-1/Wetland\\_Types.tif](ftp://ftp.sjrwmd.com/pub/96019-1/Wetland_Types.tif))

The site is contiguous with a ca. 30-acre mitigation area to the northeast with several hundred feet of common boundary between the off-site mitigation areas (encumbered by conservation easement in favor of the District in association with other permits). The site is bound by SR46, a four-lane divided rural highway to the south and a two-lane divided subdivision entrance roadway to the west. To the west of the subdivision entrance are conservation lands also encumbered by conservation easement in favor of the District. (See [ftp://ftp.sjrwmd.com/pub/96019-1/Aerial\\_2004\\_\(ConservAreas\).jpg](ftp://ftp.sjrwmd.com/pub/96019-1/Aerial_2004_(ConservAreas).jpg);

Innumerable bear sightings have been documented by the residents of the adjacent residential subdivision, the most recent being last night. (See [ftp://ftp.sjrwmd.com/pub/96019-1/Bear\\_Sightings.tif](ftp://ftp.sjrwmd.com/pub/96019-1/Bear_Sightings.tif)) I have observed several bear tracks in a muddy area on the project site and several claw marks on oaks and cabbage palms in the adjacent residential lawns. Several hair samples also were reported collected off of a wire fence by DEP biologists.

The applicant proposes to maintain 50 feet of forested wetlands along the northern boundary of the project

and 25 feet along the eastern and western boundaries of the site. (See The applicant proposes to mitigate the impacts at the Colbert-Cameron Mitigation Bank and/or the East Central Florida Regional Mitigation Bank. (See [ftp://ftp.sjrwmd.com/pub/96019-1/Mitigation\\_Map.JPG](ftp://ftp.sjrwmd.com/pub/96019-1/Mitigation_Map.JPG))

For your convenience, following are copies of the correspondences we've received from both the applicant's consultant and the consultant for the adjacent residents:

May 13, 2005, Correspondence from Lake Forest HOA: [ftp://ftp.sjrwmd.com/pub/96019-1/0513\(LF\).tif](ftp://ftp.sjrwmd.com/pub/96019-1/0513(LF).tif)  
 June 14, 2005, Correspondence from Applicant's Consultant: [ftp://ftp.sjrwmd.com/pub/96019-1/0614\(DRMP\).tif](ftp://ftp.sjrwmd.com/pub/96019-1/0614(DRMP).tif)

June 27, 2005, Correspondence from Lake Forest HOA: [ftp://ftp.sjrwmd.com/pub/96019-1/0627\(LF\).tif](ftp://ftp.sjrwmd.com/pub/96019-1/0627(LF).tif)

July 22, 2005, Correspondence from Applicant's Consultant: [ftp://ftp.sjrwmd.com/pub/96019-1/0722\(DRMP\).tif](ftp://ftp.sjrwmd.com/pub/96019-1/0722(DRMP).tif)

August 02, 2005, Compilation of Information from Lake Forest HOA: [ftp://ftp.sjrwmd.com/pub/96019-1/0802\(LF\).tif](ftp://ftp.sjrwmd.com/pub/96019-1/0802(LF).tif)

If you have any questions, please do not hesitate to call me at 407/659-4856 (SunCom 860-4856).

Anthony Miller, Senior Regulatory Scientist  
 Department of Water Resources  
 St Johns River Water Management District

# Presence of Black Bear Roadkill and Bear Habitat Hattaway Properties, Seminole County

## Legend

○ Bear Roadkill (19

— Roads

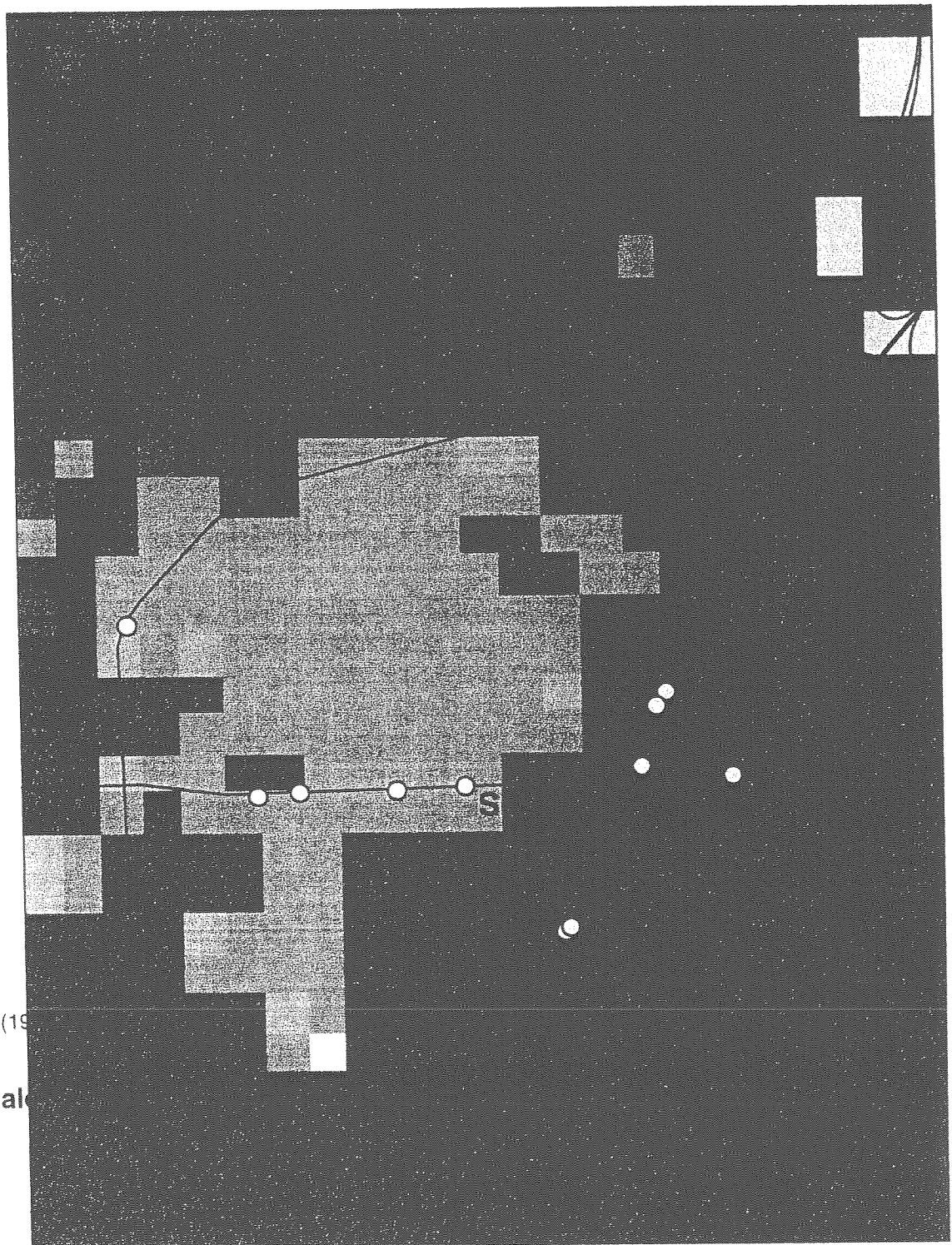
## Bear Habitat Scale

Value

High : 10

Low : 0

0 0.2 0.4 0.8 1.2 1.6 Miles

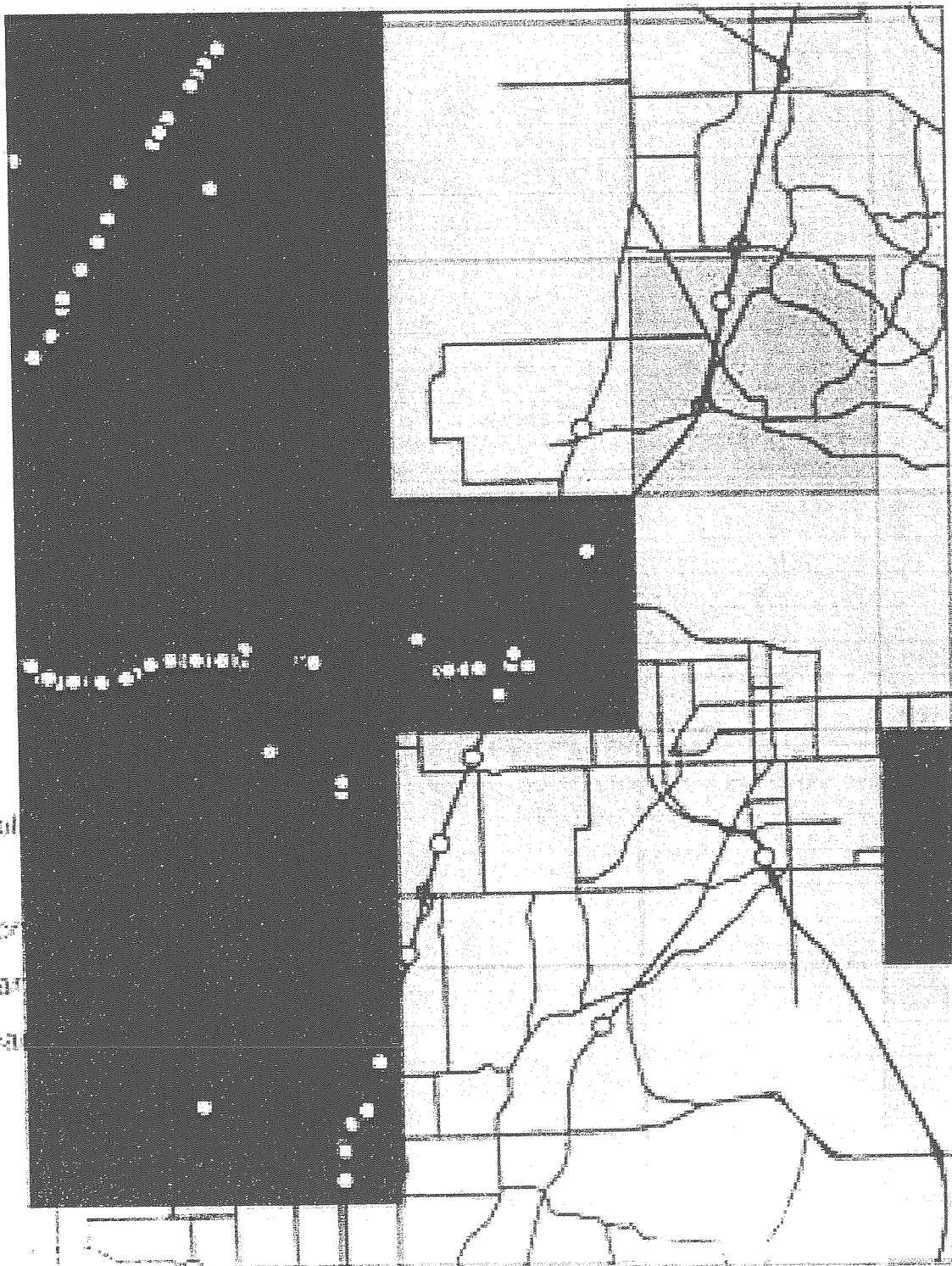




# Presence of Black Bear and Black Bear Roadkill Hattaway Properties, Seminole County

## Legend

- Bear Roadkill
- Roads
- Reproduction
- ▨ Female Bear
- General Bear



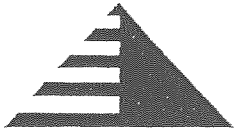


Scenic  
July Property Appraisal - Copyright (c) 2000-2003

BEAR SIGHTING LOCATIONS IN LAKE FOREST

Revised August 1, 2005





**Advantage Consulting, LLC**  
Diverse, Innovative, Responsive, Effective  
410 Lake Lenelle Drive  
Chuluota, Florida 32766

May 12, 2005

Mr. Robert Manuel, Transition Committee CO-Chairman  
Lake Forest Homeowners Association  
5336 Fawn Woods Court  
Sanford, FL 32771

RE: **EXECUTIVE SUMMARY**-Lake Forest HOA Ecological Assessment and Permit  
Review Summary - EAPRS

Dear Mr. Manuel:

### **EXECUTIVE SUMMARY**

As Consultant to the Lake Forest Homeowners Association (HOA), and specifically contracted to address environmental concerns about the proposed development of the Hattaway property immediately to the south of the Lake Forest development, I reviewed the documents provided by the HOA, as well as other information. In my review, I found several inconsistencies and questionable areas with regard to the thoroughness of permit application on the part of the applicant, and permit review issues on the part of the reviewing agencies.

The primary issues are concerns about the loss of ecological habitat, the interpretation of value of that habitat with respect to the importance of the welfare of protected species, and the environmental impacts that will likely be imposed on the residents of the Lake Forest community.

The Consultants for the applicant did not adequately address the importance of the undeveloped and undisturbed portions of the proposed development site with respect to loss of wetland habitat. Though the applicant states that the property had been in silviculture and later improved pasture, the wetland characteristics still remain on the site. The values and ratios for mitigation for the impacts to this property are very low and do not adequately account for the loss of wetland function in this area. Flood storage issues are not adequately addressed. Nor are the issues of additional water treatment and water quality address with respect to the receiving waters of the St. Johns River and Essential Fish Habitat.

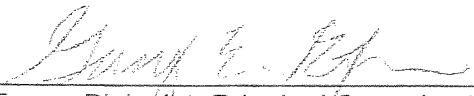
The applicant slighted the importance of the loss of black bear habitat as well as valuable habitat for several other listed and protected species. Recent black bear evidence and reports have indicated that this area remains as an important part of the home range of at least one black bear. The proposed buffer along the south edge of the Lake Forest development is in no way sufficient to serve as a wildlife corridor for this

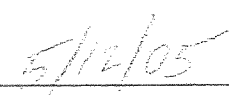
Mr. Tom Walter A. 20 2005 Enclosure 7

propertied species. The Florida Fish and Wildlife Conservation Commission has inspected portions of the site and found that the habitat is capable and does likely serve as part of the important home range for bears.

The applicant has incorrectly determined the stormwater retention capacities and likely impacts to surrounding properties of the proposed development. Water quality treatment is essentially reduced to a point that the receiving waters of the St. Johns River will be impacted and these impacts will have a serious effect on the Essential Fish Habitat in the immediate area.

The agencies appear to have given this application review a quick "once over." The development size, design, and potential impacts to the ecological value of the area, and the environmental impacts to surrounding communities should be examined more thoroughly before any considerations for a permit are granted.

  
\_\_\_\_\_  
Gary Exner, Biologist, Principal Consultant  
Advantage Consulting LLC

  
\_\_\_\_\_  
Date



**Advantage Consulting, LLC**

Diverse, Innovative, Responsive, Effective  
410 Lake Lenelle Drive  
Chuluota, Florida 32766

May 12, 2005

Mr. Robert Manuel, Transition Committee Co-Chairman  
Lake Forest Homeowners Association  
5336 Fawn Woods Court  
Sanford, FL 32771

RE: 1. Lake Forest HOA Ecological Assessment and Permit Review Summary – EAPRS  
2. SJRWMD Permit Application 4-117-96019-1  
3. U.S. Army Corps of Engineers Permit Application SAJ-2005-247(IP-TSB)

Dear Mr. Manuel:

Pursuant to the signed Proposal/Contract from Advantage Consulting LLC, I have reviewed the permit application subject site from the adjacent conservation areas on the north and east sides, and from SR-46 on the south side of the proposed project, as well as from Lake Forest Boulevard on the west side. I have also observed the subject property from the south, rear portions of the lots that abut the subject site which are owned by Lake Forest residents. I have reviewed the subject permit applications and documents provided to me by the Lake Forest HOA. Those documents are listed at the end of this report.

After reviewing the above documents, I was able to determine there are a few questions that remained unanswered with regard to ecological and environmental issues. I have taken the liberty to label the documents and data pertinent to this project as "Exhibits #1 through #6." In addition, I have also obtained some additional information and labeled these items "Exhibits 7 thru 9." To simplify, I am working primarily from Exhibit #1, which is the Application for Conceptual Approval ERP..... from DRMP, dated 10/22/04.

Upon reviewing this document, in Section 3.3 dealing with Wetland Impacts and 3.3.1 Elimination and Reduction of Direct Impacts, the applicant states that, "The portions of wetlands which have not been cleared are surrounded on all sides by residential and commercial development, and a busy five-lane highway." This statement is not quite true. Seminole County Property Appraisers Simon land use map shows that the area northeast and east of the planned project is not developed, nor is the area immediately west of the project either residential or commercial property. The roadway to the west of the subject site is a privately-owned, low-volume entrance road for the residents of Lake Forest. Immediately across this road is a wetland that was originally part of a 100+/-

Page two:

acre slough. With culverted connections beneath the entrance road, this system still functions as an important wetland slough. This slough is an undeveloped area that lies northwest of the subject site.

DRMP states that mitigation for the impacts to these wetlands will be mitigated at Colbert-Cameron Mitigation Bank, and that "wetland acreage preserved on the mitigation bank property is anticipated to provide higher, long-term ecological value than the wetland system proposed for development. " Is the mitigation being traded to preservation lands sufficient to offset the impacts to wildlife that have been utilizing the un-cleared and undeveloped lands along the northern portion of the proposed project site? According to resident sightings, Black bears have been seen recently utilizing the subject natural lands which were previously wetlands and woodlands, as denning and forage areas. Though the area has lost some of its wetland function due to drainage and agricultural activities on the subject property, this un-cleared, undeveloped forested area still provides sufficient ecotone habitat for the bears to be attracted to it.

In 3.3.2 Secondary and Cumulative Impacts, DRMP states that "the proposed project site is located adjacent to a conservation easement established as mitigation for wetland impacts associated with the development of the neighboring Lake Forest subdivision. "It goes on to state that "potential secondary impacts to the conservation easement and to contiguous wetlands along the NE property border of this parcel, due to the proposed development, will be prevented by maintaining a 25 foot buffer between the development and the off-site wetlands." From my inspection of the site from the rear portions of the Lake Forest residences, it is clear that a 25 foot buffer is totally incapable of providing any buffering benefits to the remaining adjacent off-site wetlands. Due to the impacts that have already occurred as a result of the past activities on the land, it is clear that there will be no benefit by providing such a narrow buffer anywhere around the proposed development site.

In Section 3.4 Wetland Mitigation, I was surprised to see that the SJRWMD has accepted such low mitigation ratios for the wetland impacts. Typically, SJRWMD has much higher mitigation ratios for wetland impacts in all these categories. I am also concerned that the SJWMD is accepting diluted WRAP scores for the mitigation. There is also confusion with the statement by DRMP, that "credits for the Colbert-Cameron Mitigation Bank have been reserved to mitigate for wetland impacts with the property limits. However, no financial transaction has occurred, and negotiations are ongoing with the East Central Florida Regional Mitigation Bank (ECFRMB) as well." If the ECFRMB is selected, how many credits will be purchased from that bank? Will the developer be buying credits from both banks? Are there any other mitigation banks or offsite mitigation options the public should know about? It seems that mitigation for the impacts to wetland is still up in the air. How can the permit be approved with so many unanswered issues?

With respect to the 4.1 dealing with the Methodology for the Wildlife Assessment, I see that the field surveys were conducted on January 27, January 29, and February 9, 2004 by qualified biologists to determine the potential occurrence of listed species and their habitat. My question is, how many manhours were actually spent looking for evidence of wildlife useage? Was this work part of some other tasks that were performed while in the field on the site? In other words, was the entire 6 to 7 hours per person dedicated to

Page three:

just looking for wildlife signs of usage, or were other environmental tasks being performed during this time. What percentage of the total area was covered during this field inspection? Due to the fact that this period of time had limited daylight observance opportunities, were any early morning or evening observances performed?

Given that fact that the winter offers minimal activity for some of the animals of concern, what comments can be made as to the accuracy and thoroughness of the wildlife surveys? Biologists from the Florida Fish and Wildlife Conservation Commission (FFWCC – Mr. Walt McCown and Mr. Brian Scheick) have stated that Black bears are only minimally active during the winter months. Were there any wildlife surveys conducted in the years prior, during the higher activity periods of June or July?

The above FFWCC biologists were also concerned that a 25 foot buffer, which would serve as the only wildlife corridor between the Lake Forest development and the proposed project, would not be wide enough to serve as the important connection to the remaining wetlands and ecotone lying to the west of the project.

The DRMP report's section 4.2 Findings and Interpretation of Protected Species Survey states that, "the project is located within secondary habitat of the Florida black bear. Two documented black bear road kills (1997, 2002) were located on S.R. 46, due south of the project limits, and there have been multiple bear nuisance reports to the FFWCC within the project's regional area. However, there is no historical documentation of black bear occurrence within the project limits. Therefore, it is unlikely that this project will have a significant impact on the Florida black bear." This statement seems to contradict itself. If indeed, black bears have been killed crossing S.R. 46, and if there have been nuisance reports from the area, it seems that the project area serves an important and significant benefit to a black bear population.

Recent information obtained from the FFWCC biologists shows that there have been five (5) reported black bears killed on S. R. 46, in an area west of I-4 and east of the Wekiva River bridge, since the year 2002. One bear was killed in July 2003, and four bears were killed on S.R. 46 during the months between June and October 2004. It is clear that this area is a significant habitat area for the Florida black bear. Given that information, it is important to also know that several residents from the Lake Forest neighborhoods have seen the bears in the area immediately south of their properties. This is the same area that is slated to be reduced to a minimum 25 foot wide buffer. The laurel oaks and relic (citrus) fruit trees that survived the 2004 hurricane season still exist in the uncleared portion of the proposed development site. Wood storks as well as the other birds listed in the DRMP report still use the small ponds on the project site for foraging. The comment that these birds will use the other mitigation banks site for foraging is somewhat ridiculous. The fact remains that total area of habitat for foraging will be lost. The birds may eventually find other places to forage, but in no way is there is either a gain or minimization of lost habitat for these species.

It is clear that a more thorough wildlife survey needs to be conducted on the subject property before statements of minimal or insignificant loss of habitat will occur as result of this project. Under the DRMP 4.3 Conclusions/Recommendations, they state that "no additional species-specific surveys are recommended prior to construction activities..." is totally wrong. There is simply too much information and research that needs to be

Page four:

obtained before this project should be allowed to move forward. A species-specific survey should be performed during the activity months for the black bear. The black bear is recognized as a Threatened species in Florida. Appropriate attention must be given to the potential impacts to its wildlife corridors and habitat continuity.

DRMP included a letter dated, 3/2/2004 from the FFWCC stating that though their "database does not necessarily contain records of all listed species that may occur in a given area... one should not assume that an absence of occurrences in our databases indicates that a species of significance does not occur in the area." This means that quite probably a species-specific survey should have been performed especially, since there had been nuisance reports and road kill incidents. Clearly, one cannot make "reasonable assurances" that a regulated activity will not impact the values of wetland and other surface water functions as to cause adverse impacts to: the abundance and diversity of fish, wildlife and listed species....[SJRWMD MSSW Handbook 12.2.2 (a)].

The ACOE Public Notice (Exhibit #5) states that the "eastern indigo snake may occur in the area of the proposed project," but there was no mention of this snake or any species-specific surveys (drift -fence studies) described in the DRMP report. Nor were there any comments to define what actions would be taken if the animal is encountered during construction activities. There was no discussion how the wetlands that will be filled will be prevented from adversely impacting the receiving waters and the Essential Fish Habitat (EFH) waters of the St. Johns River. Filling wetlands can be a very sensitive issue. It requires special retention tactics to ensure that sediments and total solids will not be discharged into other areas which may carry these components into other wetlands or waters of the state. I found no discussion of this plan anywhere in the report. I also found it strange that comments made by the ACOE reviewer, Mr. Steve Brooker stating because the forested hardwood wetland, which had not been disturbed by either silviculture or past agricultural activities, had suffered from soils subsidence, that it now serves reduced wetland functional value. Soil subsidence is normal and expected in this type of soil. Much of the subsidence has occurred over many years. Soils subsidence should be no reason to devalue the importance of maintaining this wetland. In another statement, it was the initial opinion of the ACOE that the proposed action may have a substantial adverse impacts on the Essential Fish Habitat (EFH) or Federally managed fisheries supported by the St. Johns River Basin. What is the ACOE final determination? What was the opinion of the National Marine Fisheries?

The area immediately south of the residences at Lake Forest is a wetland. It has suffered several years from soils subsidence and more recently from the storms of 2004. There was no discussion how these wetlands will be filled or how they will be prevented from adversely impacting the receiving waters and the EFH waters of the St. Johns River. Filling wetlands can be a very sensitive issue. It requires special retention tactics to ensure that sediments and total solids will not be discharged into other areas which may carry these components into other wetlands or waters of the state. I found no discussion of this plan anywhere in the report. I also found it strange that comments made by the ACOE reviewer, Mr. Steve Brooker stating because the forested hardwood wetlands, which had not been disturbed by either silviculture or past agricultural activities, had suffered from soils subsidence, they now have reduced wetland functional value. Soil subsidence is normal and expected in this type of soil. Much of the subsidence has occurred over many years. Soils subsidence should be no

Page five:

reason to devalue the importance of maintaining this wetland. The habitat still provides several wetland functional benefits in its present condition. When determining the value of the undeveloped/undisturbed habitat immediately south of the Lake Forest residences, one needs to look at what does that land provide as far as wetland function and value. The parameters are as follows:

groundwater recharge	very good
groundwater discharge	very good
floodflow alteration	very good
sediment stabilization	very good
sediment/toxicant retention	very good
nutrient removal/transformation	good
production export	good
wildlife diversity/abundance	very good
aquatic diversity/abundance	fair
recreation	fair
uniqueness/heritage	fair

To remove or diminish the functional values of any of these parameters will mean that the factors could result in impacts (secondarily) to other nearby residences. The groundwater recharge will be seriously impacted for this area. The sediment stabilization is likely to be relatively meaningless if a minimally sized 25 buffer is planned for the north end of the property. Clearly, flood storage will be a problem by having a development with so little pervious surface remaining, particularly at the north end where the subject development abuts the Lake Forest residences. Obviously, wildlife considerations have been totally negated from concern by the applicant. For all practical purposes, the entire value of the existing wetland at the northern end of the project has been obliterated for this development.

The forested wetland habitat does suffer from soil subsidence, but this is expected with kind of soil (Basinger, Samsula, Hontoon, depressional). This soil experiences flooding nearly every year to a possible depth of +2.0 feet during the wet season. Immokalee sands occupy a portion of the subject property in the higher elevations. This soil also experiences occasional flooding, but not as frequent as the other soils. It also shows groundwater to within -1.0 feet below ground surface. This soil type is somewhat more conducive to woodland wildlife and consequently provides the probability of a meaningful corridor for the black bears. The loss of these soils through development will likely preclude any habitat function for the wildlife that presently visit the site.

References written by Dailan Pugh, March 1994, "The Need for Wildlife Corridors" states that wildlife corridors should have a minimum width of 100 meters and should be linked to other suitable habitats. In a paper written by Soule and Gilpin, 1991 as cited by Evan McKenzie, February 1995, he states that "wildlife corridors may have an optimum width determined by the edge effect and the tendency of dispersing animals to wander. Minimum widths of corridors may be estimated from data on target species home range sizes and shapes as well as considering widths necessary to maintain desired habitat against penetration of other vegetation types from edges (Harrison, 1992). Harrison also suggests that if a corridor is to contain enough suitable habitat for a given species to permanently occupy the corridor, it must be at least as wide as the width of one home

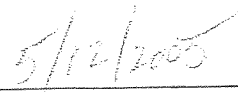
Page six:

range and contain home ranges that are designed to be rectangular and twice as long as wide."

In summary, in order for a meaningful wildlife corridor for the black bear to be maintained for this project, and if the length of the north end of the subject project is 600 feet, and if this area is to serve as a wildlife buffer/corridor, the corridor width should be 300 feet. This corridor width could then provide a suitable habitat to allow for the continuation of the natural range movement for the black bears. As it presently is planned, the FFWCC has confirmed that a 25 foot wide buffer corridor which cannot adequately support the needs of black bear movement.

Sufficient species surveys have not been conducted for this project. The surveys were performed at other than an opportune time to detect the presence or activities of black bears. No resident interviews were conducted to determine which, if any, species had been seen on the subject site. There were no obvious indications that a herpetological survey was conducted by DRMP for the eastern indigo snake. No final opinions are available from the National Marine Fisheries with regard to the loss of or impacts to Essential Fish Habitat. It appears that both DRMP and the SJRWMD have placed such a low value on the wetlands that exist on the subject property that mitigation does not adequately account for the loss of these onsite wetlands. The final mitigation bank location has not been confirmed. Does the developer plan on buying credits from Colbert-Cameron or East Central Florida Regional Mitigation Bank? Or, are there still other mitigation options that have not been discussed? Mitigation for the loss of these onsite wetlands less than 2:1. This seems to be extraordinarily low with respect to wetlands that are connected to other offsite systems (the 100+ acres to the west and northwest).

  
\_\_\_\_\_  
Gary E. Exner, Environmental Consultant – Reviewer

  
\_\_\_\_\_  
Date

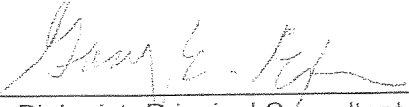
Documents reviewed:

1. Application for Conceptual Approval Environmental Resource Permit (SJRWMD No. 4-117-96019-1) Hattaway Properties at SR-46, Seminole County, Florida dated 10/22/04;
2. Request for Additional Information letter from (SJRWMD) St. Johns River Water Management District, dated 11/19/2004;
3. SJRWMD Applicant's Handbook MSSW, dated 2/1/2005;
4. DRMP response letter dated 2/8/2005 to SJRWMD;
5. Public Notice dated 3/21/2005 from the U.S. Army Corps of Engineers (ACOE); for the Permit Application SAJ-2005-247(IP-TSB).
6. Ancillary data from DCA dated 4/25 and 4/26/05.



## ADDENDUM

The conservation area to the north and east of the proposed project area was inspected by Mr. Brian Scheick, Wildlife Biologist with the Florida Fish and Wildlife Conservation Commission (FFWCC), on May 11, 2005. During his site inspection of the property, owned by Mr. John Brown (5312 Lake Bluff Terrace, Lake Forest Subdivision, Sanford, FL), Mr. Scheick and the undersigned examined the scats left by a black bear visits through this property on May 10, 2005. We also collected hair samples from the barbed-wire fence at the south end of the Lake Forest lots that connect to the northeastern portion of the Conservation Easement. The hair samples were examined and thought to be proof of recent crossings by a black bear into this area. Mr. Scheick stated that "the scats and the hair samples were typical of black bears, and that the site and habitat behind the residences appeared to be part of a home range for at least one black bear." He also noted that there have been recent nuisance reports of bears in this area over the past few years. Photographs of the bear scats and hairs can be made available for further inspection.



Gary Exner, Biologist, Principal Consultant  
Advantage Consulting LLC



Date



**Advantage Consulting, LLC**  
Diverse, Innovative, Responsive, Effective  
410 Lake Lenelle Drive  
Chuluota, Florida 32766

June 22, 2005

Mr. Anthony Miller, Sr. Regulatory Scientist  
St. Johns River Water Management District  
975 Keller Road  
Altamonte Springs, Florida 32714

Re: Review of Initial Environmental Assessment report from Bio-Tech Consulting Inc.  
and the report for the Florida Black Bear Credits document from Alan Fickett to DRMP  
for the East Central Florida Regional Mitigation Bank – Potential Bear Habitat 6/14/05

Dear Mr. Miller:

I have several questions regarding the findings and descriptions noted in both of the above reports. My first few questions deal with the report that we had been waiting to see from Bio-Tech Consulting Inc., apparently John Miklos' firm.

1. This report, dated May 20, 2005 was apparently researched and written by Mr. Jay Baker of BTC. In the very first sentence he states, "During May of 2005, Bio-Tech Consulting Inc. conducted an environmental assessment of the 40-acre SR 46 Project Site..." Although this kind of statement may be adequate in some venues, it is not accurate for a scientific report. The actual date should certainly be referenced. I have no way of knowing what day or days he or his team were actually in the field doing the assessment. You know as well as I do that climate and local conditions can have an affect on what kinds of activities are noted during the transitional months between late spring and early summer. I have no way of knowing how many hours were spent doing this field inspection. Was it only an hour or two? Or was it conducted at different times on different days? You also know that evidence of usage can depend upon a variety of conditions, i.e. rain, winds, extreme heat, etc.

2. On page two of the report, the second paragraph indicates that "the listed plant and wildlife assessment conducted as part of this qualitative review was conducted on May 20, 2004." I realize that 2004 should have been 2005 and it was simply a typo so that is not a big deal, but I am concerned that it still only references 1 day and not any particular number of hours spend doing a "qualitative review." How much of a qualitative review can be completed for a 40-acre site on one day? Were there any interviews conducted during this assessment? Even when conducting an abbreviated Environmental Site Assessment according to ASTM guidelines, interviews are generally performed and recommended. Did they check with any state or local governmental agencies during this "qualitative review?"

Mr. T. Walter August 20, 2005 Enclosure 8

Page two:

3. The report continues to elaborate on the presence of Florida Sandhill Cranes which were sighted and found nesting near the center of the subject property. The nest was marked on an Aerial Photograph and supplied as Drawing #1. This nest location may or may not be accurate. I do not know whether the location coordinates were recorded using GPS or whether this location is simply an approximation indicating that is near the center of the property. This finding, of course, is contradictory to your findings and assessment that the habitat was not suitable and the likelihood for sandhill cranes using the site was essentially nullified and irrelevant. Without, knowing more about the credibility of the researcher(s) who found the nest, how can we be sure that the sandhill cranes do or do not use this habitat for nesting? I searched the webpage for BTC seeking more information on the credentials of Jay Baker, but could not find anything regarding his resume or experience. Therefore, I have no way of knowing if he is even correct about his sightings or his findings. Why would all evidence of the past nest be gone when you inspected the site only about two weeks later?

4. Lastly, the report states in the second to the last paragraph on page 4, that "no evidence of Florida Black Bears (*Ursus americanus*) was observed within the subject property. This includes the most common evidence of scat and "shredded" sabal palms (*Sabal palmetto*) associated with the presence of black bears. Other evidence includes bite or claw marks on tree and paw prints." My question again lies with how much time was spent doing this observation? How many qualified staff were involved? Did they investigate any of the forested habitat near the north end of the subject site? You are clearly aware of how detailed one must be in carefully examining the trees to see possible evidence such as claw marks. We saw this from the trees we examined. Perhaps BTC was unaware that there had been sightings all around the property and more than one incident of road kills on SR 46 just south of the site. If they were aware of the site being potentially frequented by black bears, why would they indicate that they did the site assessment on the same single day that the report and supporting maps were also prepared and completed? I question the validity of their qualitative study period. We are both aware that though some minor activity may occur earlier in the year, particularly with females, the primary activity periods start in late May and early June. It appears to me that significantly more time should have been spent seeking information on the bears. When we last met in the field, you told me that you were expecting a report on the bears from John Miklos. It almost appears that this report was a rush job and not a real qualitative assessment.

5. With respect to the DRMP memo/report from Alan Fickett, I have several questions dealing with the description of the mitigation bank location. It described the site as the Seminole Ranch Conservation Area (East Central Florida Regional Mitigation Bank). It states that this site is 952 acres, which equates to about 1.4 square miles. It also goes on to say that the best way to preserve the value of this mitigation area as suitable black bear habitat is to maintain connectivity and continuity to the Ocala Forest 65 miles to the north. It states that the continuity to the Wekiva River black bear habitat is only about 22 miles to the west, but because of the development and discontinuity between these sites, that connectivity for this area is far less likely. My question is, what is their definition of what they consider as a "stable-subpopulation" for black bears?

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6. The subject property does serve as black bear habitat at least regularly and perhaps temporarily during each year. This has been documented by sightings, photographs and reports within and outside of the Lake Forest community. Consequently, the subject site has been photographed and evidence has been collected confirming black bears are using all or at least a large portion of the subject site. There is also strong evidence that the cyclical roaming range of this critical habitat is just east of the Wekiva River and just west of the I-4 corridor. This area is about 18 square miles, which is within the recognized suitable home range for females, i.e 20 to 30 square miles. This area does support a continual population of at least three bears and probably more during each year. This home range area for this subpopulation is nearly 13 times the size of the uncertain destiny of the proposed mitigation bank area noted as the East Central Florida Regional Mitigation Bank. How is it recognized as a benefit, or an improvement to the perpetuation of black bear habitat, by mitigating for the bears at the mitigation bank, which has a dubious chance of ever maintaining continuity or connectivity to the next closest home range which is 65 miles to the north?

7. The recommendation for preservation of 60,000 acres of protected lands is altruistic. If the intent is that the East Central Florida Regional Mitigation Bank is to be part of this, it appears that a much more accurate plan for how this will be achieved should be made public, before the state puts its trust in the dream that continuity will be suitable for this large of an area to truly be preserved. Personally, I do not see this ever happening.

8. The report summarizes that "the region in which the mitigation bank is situated has not been documented to support a self-sustaining population of black bears at the present time." It goes not to say, "the extensive systems of forest wetlands and pine flatwoods, of which the mitigation bank site is a part, has the potential of supporting a small bear population as the bear population of the state continues to grow and expand." My question is, why would we want to destroy an area that has a known and returning bear population, for mitigating in another area of lesser potential for success? The FFWCC indicated that due to road kills and nuisance incidents the bear population is diminishing. The only areas they are excited about preserving are those areas they already own and control. All areas outside of these areas are considered to be lost cause habitats. How can we propose destroying one area (home range) that has a proven sustained population, and suggest that mitigation in a less documented population will help the overall bear population grow and expand? Something is wrong with that kind of philosophy. It is not even scientifically valid.

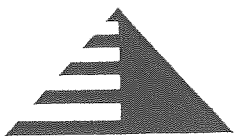
I appreciate your thoughts and comments regarding this critique of these reports. We are in the process of providing you with the maps of the researched local home range, drawings, photographs and other data supporting our findings. If you have any questions, please contact me.

Sincerely,

Gary Exner

Advantage Consulting LLC

407/365-4662 FAX 407/359-9685 Cell 407/312-5066 North GA office: 706/835-2042



**Advantage Consulting, LLC**  
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**July 29, 2005**

Mr. Fred Bates  
Transition Committee Co-Chairman  
Lake Forest Homeowners Association  
4963 Maple Glen Place  
Sanford, FL 32771

**RE: RESPONSES TO DRMP 7/22/05 REPORT TO SJRWMD**

Dear Sir:

With regard to a review of the above Letter of Transmittal and report excerpts from the **Revised July 2005 Ecological Assessment for the Hattaway Properties at SR-46**, several questions are still unclear and of concern to me.

Specifically, in reference to Section 3.2 Wetland Vegetative Description, the second sentence states "... a portion of the parcel has been converted to improved pasture with cattle ponds." From examination of current 2002 aerials and newer, it appears that the majority of the site has been cleared and used for pasture, although it may not all be classified as improved. The only part of the site that appears to be somewhat as it may have been historically, with respect to vegetation, is the portion along the northern buffer. Field inspections from the Lake Forest property show that this area has also suffered from both natural and unnatural disturbances. A Cease and Desist Order from the U.S. Army Corps of Engineers, describes that "the U.S. Army Corps of Engineers (Corps) has observed the mechanical clearing of forested and herbaceous wetlands and performance of dredging and filling in water of the United States (wetlands) at your 42.7 acre site located at State Road 46 in Seminole County." (dated July 11, 2005)

The next issue appears in Section 3.3.1 Elimination and Reduction of Direct Impacts. It goes on to say that ... "this project satisfies elimination and reduction criteria on the basis of the environmental value of the proposed mitigation property being of significantly higher regional ecological value than the wetland proposed for impact." I do not see how this statement can be made given the importance of maintaining recognized bear habitat and corridors critical to the immediate region associated with the Wekiva River acknowledge bear populations. The proposed mitigation property has no relationship at all to do with the Wekiva bear habitat or maintenance of that primary or secondary population.

M. F. W. H. A. 2005 Enclosure 9

The second paragraph in section 3.3.1 goes on to state that "The wetland systems proposed for impact have been logged under a silviculture permit, converting portions of the property to active improved pasture." Local silviculture operations in this region typically focused on the growth and harvesting of cypress and slash pines. Some record of proof should be provided to show exactly what kind of harvesting was performed on this site. It certainly appears that the described soil types indicate that primarily wetland hardwoods must have been harvested. Is that true? Was there also harvesting of cabbage palms and loblolly bays? Was the harvesting performed according to proper silviculture practices, or was this simply a clear-cut method to remove nearly all the canopy species for cattle agricultural activities, except for those along the extreme northern boundary of the site?

It certainly appears that the silviculture operations cleared nearly all the natural forested wetlands. Consequently, impacts should be evaluated based on the kind of vegetation that was historically present on the property. It appears, from the ACOE notification letter, that perhaps several impacts have occurred on the property without having the appropriate permits. Typically, silvicultural activities do not result in the lands "converting into active improved pasture." This is generally performed under a separately permitted task.

The second sentence in the second paragraph under 3.3.1. states " The portions of wetlands which have not been cleared are surrounded by residential and commercial development, and a busy five-lane highway." This statement is simply not true. There is a large conservation easement to the east of these wetlands, and another wetland slough to the west of the wetlands. The subject property is part of a contiguous wetland system bordered on the east, west and northeast sides by wetlands preserved in conservation areas. Seminole County is full of highways and roads. Almost all wetlands and natural habitat areas that remain are bordered somewhere with either roads, or highways. The evaluation should consider whether there are natural habitat areas on the either side of the highways, as is the case with this property. There is no commercial development to the immediate south of the site. There is a residential community to the immediate north of the site, that has documented frequent reports and sightings of both bears and sand hill cranes that utilize the subject site on a regular basis, as well as other natural corridors in the immediate area.

The last sentence in the second paragraph under 3.3.1 states that "wetland acreage preserved on these mitigation bank properties is anticipated to provide higher, long-term ecological value than the wetland system proposed for development." It does not appear that any effort to minimize or avoid impacts to the subject site wetland has been addressed. I am not sure if the research that has been performed is sufficient to use the word "anticipated." I think some poor assumptions have been reported in the July 22, 2005 report as well as other past reports.

There is no justified explanation for impacting the existing habitat that hosts habitat for black bears and sand hill cranes in this local area. These are the target listed species for the proposed impacted wetlands on the property. The loss of their habitat is not being compensated appropriately or effectively by proposing mitigation at a bank which is located on the other side of the County.

In the last paragraph under 3.3.1, the reduction of only 5 acres +/- is insufficient to assume that this will account for the preservation and corridor requirements for the target listed species.

In section 3.3.2 Secondary and Cumulative Impacts, a change from a 25 foot wide buffer has apparently been increased to a 50 foot wide buffer. Obviously, the research by DRMP biologists and Biotech Consulting did not include any investigation as to the recommended sufficiency for habitat corridor widths necessary for sustaining viable black bear population migration. The recommended width is clearly noted as  $\frac{1}{2}$  the corridor length. Consequently, the existing buffer that lies along the northern boundary of the subject property is approximately 600 feet in length, and the preserved corridor width should be at least 300 feet wide. (ref. *Evan McKenzie, Wildlife Movement Corridors – A Partial Literature Review*, Pg. 9, Feb. 1995; and *Monica Bond, Principles of Wildlife Corridor Design*, center for Biological Diversity, Oct. 2003). Assuming a bolder approach, Bond states that the minimum width should be 1000 feet wide, with a 30 to 60 wide buffer along both edges. Clearly, the offering of a 50 foot wide buffer is meaningless to the preservation of the target listed species habitat.

With respect to wetlands and the loss of the property wetlands and their relationship to the other preserved conservation areas bordering the property on the east, west, and northeast sides, the impacts proposed will have a significant impact on several of the wetland functional values of the adjacent wetland systems. Some of these losses will be related to reduction in water quality in these wetlands, through the loss of filtering and nutrient uptake that presently occurs in the onsite wetlands. Another is the loss of flood storage, the loss of fish and amphibian habitat locally associated with the systems to the east and to the northwest. Another factor is the loss of erosion and sediment control, and obviously wildlife corridor and habitat usage. Evapotranspiration factors will also be significantly changed as a result of the loss of these wetlands. Consequently, this will also have an impact on the evapotranspiration capacities within the other local wetland systems.

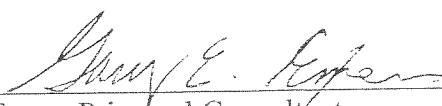
Issues pertaining to the Section 4.0 Wildlife Assessment have already been addressed in part. Under section 4.1 Methodology, in the last paragraph, for a project of this size, it is clear that seasonal considerations for survey and study periods should have been employed. Given the information that was already known from the research and data collections that were done by DRMP biologists and Biotech Consulting, it should have been apparent that given the reported road kill data for bears, that the studies should have been performed with seasonality in mind. It appears that research and survey techniques were inappropriate for this project.


In conclusion, wetlands adjacent to subject site will be significantly impacted if the proposed impacts are allowed. It is also clear the significant target species habitat will be lost if the proposed project is permitted. Mitigation for the impacts to these target listed species will be inadequate to preserve the so-called "secondary habitat" that presently exists on the subject site. The proposed mitigation bank is too far away from the subject site to serve as any kind of species habitat mitigation alternative.

It does not seem to be appropriate to simply neglect doing drift fence herpetological surveys based on an opinion of the biologists who also found no significance in the bear habitat. The eastern indigo snake is also a target listed species. This species utilizes a wide range of habitat types. It is not surprising that FFWCC, USFWS, and FNAI had no documented occurrences of this species reported within the project limits. This site had been impacted considerably over time. It is not surprising that no occurrences had been reported due to the activities that took place. I do not see any reason for negating the suggestion for this species evaluation as questioned by the ACOE.

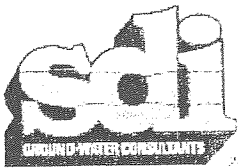
In conclusion, the proposed mitigation property cannot adequately mitigate for the wetland impacts and severance from other wetland systems that are, and have been preserved in the immediate area. The proposed mitigation bank cannot adequately provide for the preservation or perpetuation of the target listed species endemic to the immediate area of the project. The mitigation is too far away for any value to be associated as mitigation for the loss of habitat for these target listed species.

There is no indication or proof that the adjoining wetlands will not be affected as a result of the development of the subject property. The adjoining wetlands are of good quality and support the desired functions of preserved wetland systems. The wetlands on the subject property are presently in poorer condition, but they could be restored, either naturally or through enhancement activities, to provide improved wetland function to the adjoining systems.

  
\_\_\_\_\_  
Gary Exner, Principal Consultant

  
\_\_\_\_\_  
July 29, 2005





**SDI Environmental Services, Inc.**

13911 North Dale Mabry Hwy., Suite 201, Tampa, Florida 33618  
813-961-1935 • Fax: 813-963-9852

May 11, 2005

Mr. Fred Bates and Mr. Robert Manuel  
Co-Chairmen, Transition Committee  
Lake Forest Master Community Association, Inc.  
4963 Maple Glen Place  
Sanford, Florida 32771

**RE: Review of Stormwater and Floodplain Information for the proposed Hattaway Development, Seminole County FL.**

Gentlemen:

SDI Environmental Services, Inc. (SDI) has reviewed the subject information regarding the conceptual ERP application for the development known as the Hattaway Property (ERP # 4-117-96019-1). We have also completed a cursory review of the drainage calculations submitted in support of the two previously permitted developments that are adjacent to the Hattaway Property. These adjacent developments are known as the Lake Forest Subdivision (MSSW # 4-117-0205M5) and the Northwest Oregon PUD (ERP # 4-117-79878-5).

Under Section 40C-4.301 F.A.C., applicants for standard, individual, or conceptual ERP permits are required, in relevant part, to provide reasonable assurances that the proposed activities "(a) will not cause adverse water quantity impacts to receiving waters and adjacent lands; (b) will not cause adverse flooding to on-site or off-site property;" and "(c) will not cause adverse impacts to existing surface water storage and conveyance capabilities".

During our review of the subject information, we noted significant omissions in the hydrologic and hydraulic calculations submitted in support of the ERP for the Hattaway Development. The omissions, as summarized later in this letter, include a lack of any evaluation of offsite flooding impacts, and a lack of any floodplain compensation calculations. Our findings are summarized as follows.

Offsite Runoff Contributions

- As indicated on Attachment "A", the Hattaway Property lies within a large, contiguous wetland/floodplain system.
- Attachment "A" also includes a faithful reproduction of the relevant portion of the flow routing schematic found in the *Monroe Basin Engineering Study and Drainage Inventory Update*, prepared for Seminole County by Camp, Dresser, and McKee, Inc. (CDM) in 2002. The flow schematic is a simplified representation of how the lakes, ponds, and wetlands are connected, through a combination of culverts, ditches, and other drainage structures. The schematic is not intended to depict the exact alignment of these structures. Accurate culvert and ditch locations and dimensions are depicted on a separate set of drainage inventory maps and tables in the CDM study. The CDM study indicates that the majority of the SR 46 basin discharges through two sets of twin 36" diameter culverts under SR 46. A single 24" culvert to the east of the 36" culverts also conveys a small portion of the SR 46 basin runoff.

Mr. Terry Walter Aug 28 2005

Enclosure 10



Mr. Fred Bates and Mr. Robert Manuel

May 11, 2005

Page 2

- Attachment "A" shows the approximate limits of a drainage basin south of SR 64, encompassing approximately 615 acres, which currently drains through the large wetland/floodplain system that includes the Hattaway Property. In the CDM study, this drainage basin was divided into several interconnected subbasins that ultimately discharge under SR 46, following the general routing patterns depicted on the flow schematic. The runoff from this 615-acre basin is in addition to the direct runoff from the wetland itself and contributions from the recently constructed NW Oregon PUD.
- Attachment "B" shows the approximate locations of the two sets of 36" culverts. Flow through the culverts is routed through the recently constructed NW Oregon PUD, and to the wetland conservation area that is east of and contiguous with the wetlands on the Hattaway property.

#### Floodplain Storage Currently Provided by Hattaway Property

- Approximately 80% of the site lies within a FEMA 100-year floodplain.
- Floodwaters discharging to the wetland area that includes most of the Hattaway Property are able to spread laterally, by virtue of the relative topographic elevations, and to occupy the floodplain storage currently available within the Hattaway Property. As these floodwaters spread to occupy the available storage, the discharge hydrograph is attenuated, resulting in a much lower peak rate of flow going out of the wetland than coming in.
- The drainage calculations found within the permit files of the above-mentioned previously permitted developments (Lake Forest and NW Oregon PUD) suggest that the floodplain on and around the Hattaway Property provides a substantial amount of attenuation. According to the AdICPR calculations submitted for these developments, this floodplain storage would reduce the 100-year peak discharge rate by over 300 cfs before it enters the Lake Forest drainage system.
- Any substantial reduction in the available flood storage will reduce the amount of attenuation, resulting in increases in peak discharge rates to the downstream system. The system downstream of the Hattaway Property and the contiguous wetland system is the Lake Forest Subdivision.

#### Proposed Site Development Activities

- The proposed development plan involves filling virtually the entire site with at least 5 feet and as much as 7 or 8 feet of fill to make it suitable for town homes.
- ERP rules allow applicants proposing to fill within the 100-year floodplain to provide compensating storage. The compensating storage must be hydraulically connected to the impacted floodplain, and it must be provided at approximately the same elevations of the storage volume lost through the placement of fill.



Mr. Fred Bates and Mr. Robert Manuel

May 11, 2005

Page 3

#### Omissions found in the calculations for the Hattaway Development ERP

- No floodplain compensation calculations were included in the ERP application for the Hattaway Development, and it does not appear that floodplain compensation is proposed on the site plan.
- The drainage calculations submitted in support of the conceptual ERP for the Hattaway property failed to include the offsite drainage basins south of SR 46, SR 46 itself, the offsite wetlands, the Lake Forest Drainage System, and the NW Oregon PUD.

Due to the omissions identified above, the conceptual ERP application for the Hattaway Development fails to provide reasonable assurances that the proposed activities will not cause adverse water quantity impacts to receiving waters and adjacent lands, will not cause adverse flooding to off-site property, and will not cause adverse impacts to existing surface water storage and conveyance capabilities. Additional engineering studies are needed in order to provide the reasonable assurances required by ERP rules. These additional studies would likely result in modifications to the proposed design of the Hattaway Development.

#### Suggested Activities to Address the Omissions Identified

In order to evaluate the potential flooding impacts to offsite property, offsite areas must be properly represented in both the pre- and post-development AdICPR calculations. The offsite drainage basins south of SR 46, SR 46 itself, the offsite wetlands, the Lake Forest Drainage System, and the NW Oregon PUD should be included in the calculations, as they were for the previously permitted adjacent developments. It should be noted, however, that the drainage calculations prepared for the Lake Forest Subdivision and the NW Oregon PUD included only 234 acres of drainage area south of SR 46. According to the previously referenced 2002 Seminole County / CDM study, over 600 acres of lands drain under SR 46 and into the subject wetland/floodplain system. The AdICPR calculations for the Hattaway Development must include all of the offsite contributions.

In order to provide reasonable assurances that the proposed development will not cause adverse impacts to existing surface water storage capabilities, floodplain compensation must be provided to mitigate for any fill impacts within the 100-year floodplain. Floodplain compensation calculations must be prepared and submitted to support the floodplain compensation plan. It should be noted that floodplain compensation was provided in the existing Lake Forest Development to mitigate for fill placed in portions of the FEMA floodplain. The floodplain compensation calculations for the Lake Forest MSSW assumed a 100-year flood elevation of 32.0' NGVD.




Mr. Fred Bates and Mr. Robert Manuel

May 11, 2005

Page 4

Thank you for this opportunity to provide our services. Should you have any questions regarding our findings or recommendations, or if we can assist you further on this or any other project, please don't hesitate to call me at (813) 961-1935.

Sincerely,  
SDI ENVIRONMENTAL  
SERVICES, INC.

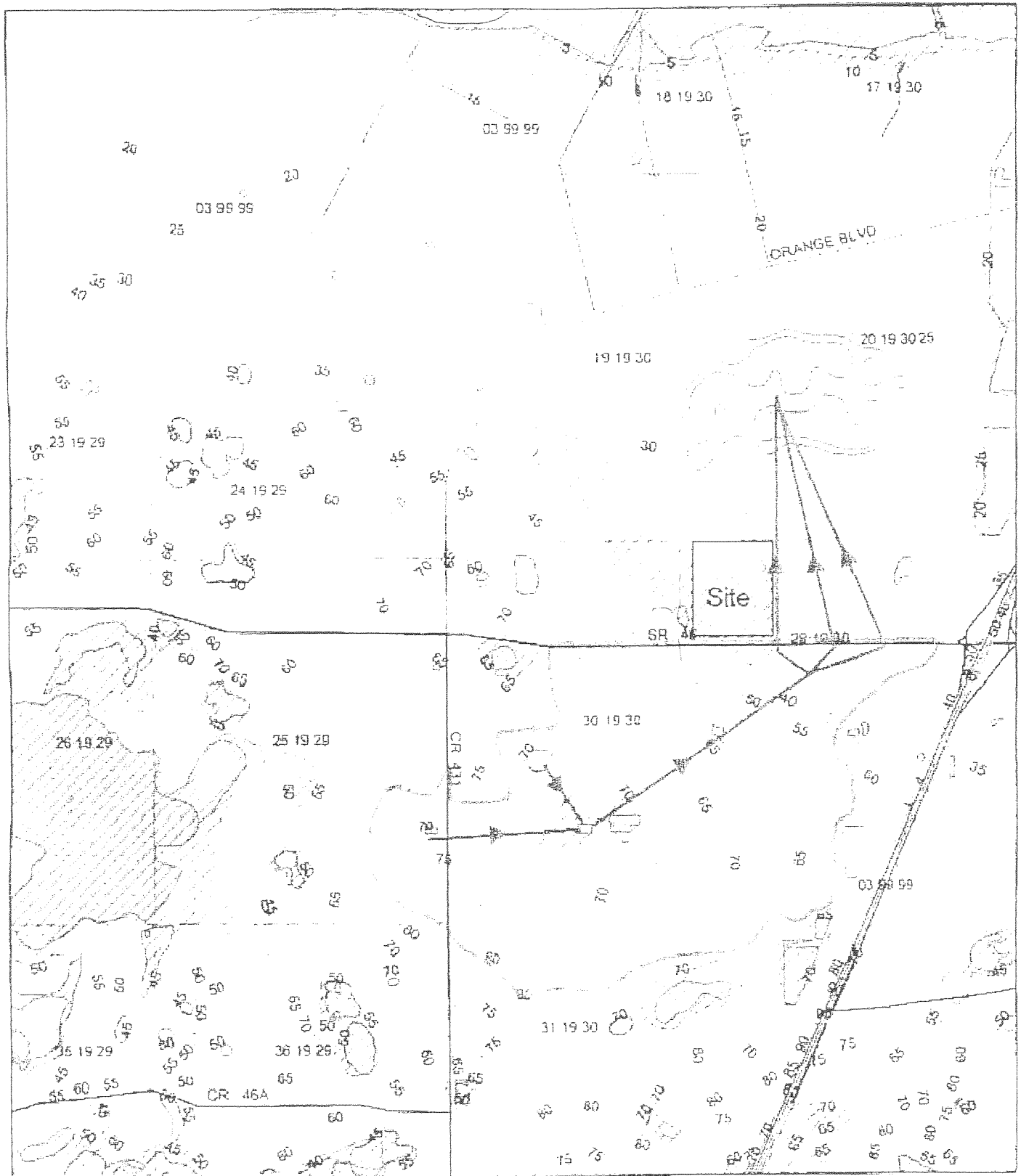
  
John E. Loper  
FL P.E. # 54623

Date: May 11, 2005

JEL/dj

Attachments A & B

# Attachment "A" – SR 46 Basin Contributing to Floodplain on Hattaway Property



## Legend

Seminole County 5 foot contours  
 Seminole\_24K\_Hydro\_lines  
 FEMA 100-Year Floodplain

## National Wetlands Inventory

Lacustrine  
 Palustrine



0 1,000 2,000 4,000 Feet



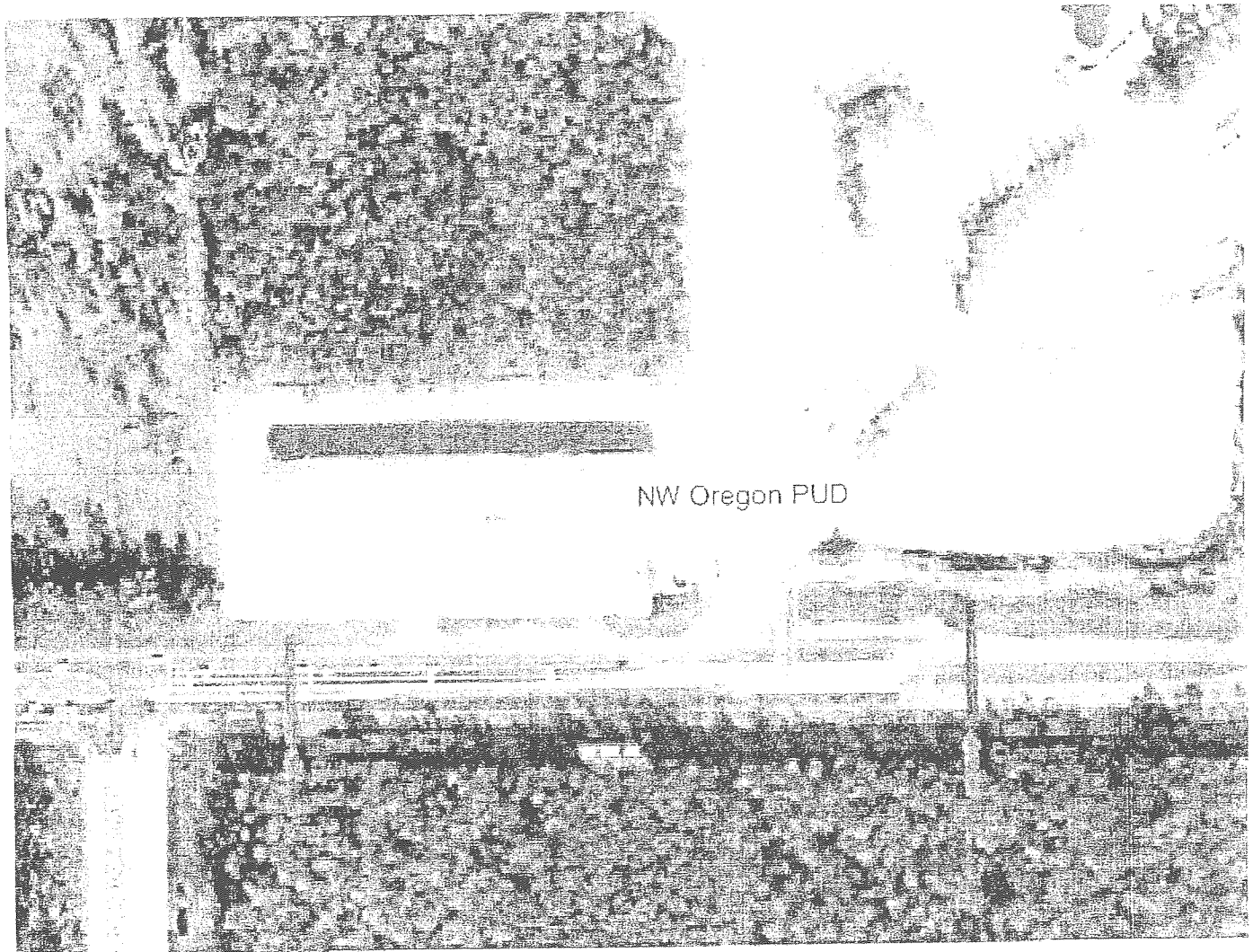
Flow Direction  
 (Ref: Lake Monroe Basin  
 Study, by CDM, 2002)



SR 46 Basin  
 Boundary



Attachment "B" – Approximate Locations of Twin 36" RCP Culverts Under SR 46  
(not to scale)





REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
COCOA REGULATORY OFFICE  
400 HIGH POINT DR., SUITE 600  
COCOA, FL 32926

Regulatory Division  
North Permits Branch  
Cocoa Regulatory Field Office  
SAJ-2005-247 (C&D-TSB)

JUL 11 2005

Bob Hattaway  
601 Hillview Drive  
Altamont Springs, Florida 32714

CERTIFIED MAIL No. 7000-1670-0010-0134-3676

CEASE AND DESIST ORDER

Dear Mr. Hattaway:

The U.S. Army Corps of Engineers (Corps) has observed the mechanically clearing of forested and herbaceous wetlands and performance of dredging and filling in waters of the United States (wetlands) at your 42.7 acre site located on State Road 46 in Seminole County. These activities would have required Corps authorization. The project site is located in Section 30, Township 19 South, Range 30 East, Seminole County, Florida. The Corps received an application from you for the filling of wetlands at the project site on SR-46, for a residential development. The Corps published a public notice on March 21, 2005, see attached. The Corps conducted a field site visit on April 20, 2005. During that site visit the Corps observed numerous man-made ponds, berms, and ditches that were constructed in waters of the United States. Pasture lands developed by mechanized land clearing were observed throughout the site in areas that were previously forested waters of the United States. The site contains numerous earthmoving activities that require a Department of the Army (DA) permit.

96019-1  
RECEIVED

JUL 12 2005

PDS  
ALTAMONTE SVC. CTR.

M. T. H. A. Enclosure 11

Information received in this office indicates that you are a party associated with this activity, either as a property owner or person performing or causing the performance of this work. It is my responsibility, as District Engineer, to enforce the provisions of the Rivers and Harbors Act of 1899 and the Clean Water Act of 1977, as they relate to this activity, and to request that you cease and desist from further activity as stated above.

Section 404 of the Clean Water Act 33 U.S.C. paragraph §1344, prohibits discharges of dredged or fill material into waters of the United States and their adjacent wetlands unless the work has been authorized by Department of the Army permit. Civil fines of not more than \$27,500 per day of violation, criminal fines of up to \$50,000 per day of violation, and imprisonment are provided along with injunctive relief, including restoration of the area.

If further work is performed after receipt of this cease and desist order, I may seek immediate legal action to halt such activity. It is requested that you acknowledge receipt of this letter within 15 days and comply with its terms. It will assist my investigations if you could provide information concerning the public and/or private need for this work, the beneficial and detrimental effects it will have on the surrounding environment, and any information you may wish to provide concerning the history of your activity. In addition, comments will be solicited from appropriate Federal and State agencies in order to better evaluate this activity.

In accordance with a Memorandum of Agreement between the Department of the Army and the U.S. Environmental Protection Agency (EPA) concerning federal enforcement of Section 404 of the Clean Water Act, a copy of this notification is being sent to the EPA for review and coordination. My staff will conduct a preliminary investigation to determine whether EPA or the U.S. Army Corps of Engineers (Corps) will be the Federal agency responsible for evaluating the unauthorized work. You will be notified whether EPA or the Corps will be the agency to work with you to resolve the violation.

96019-1

RECEIVED

JUL 12 2005

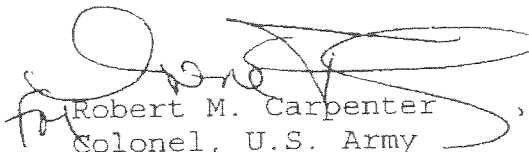
PDS

ALTAMONTE SVC. CTR.



All Corps review associated with your request to obtain a DA permits for the proposed residential development will cease until this enforcement actions is completed. If you have any questions, please contact Teresa Frame in writing, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida, or telephone 904-232-1677.

Sincerely,

  
Robert M. Carpenter  
Colonel, U.S. Army  
District Engineer

Enclosure

bcc (Public Notice):

— SJRWMD, Altamont Springs - Anthony Miller

EPA, Atlanta

USFWS, Jacksonville

NMFS, St. Pete

CESAJ-RD-E

96019-1

RECEIVED

JUL 12 2005

PDS  
ALTAMONTE SVC. CTR.

NOTE: Under our present permit regulations, we must make an evaluation, similar to that made on a permit application, to determine whether the above-mentioned work, or alternately some form of restoration, is in the general public interest. In order to conduct a complete evaluation of this project, we request any recommendations your agency may wish to offer regarding the probable beneficial and/or detrimental consequences of the present work versus those of possible restoration of the area.

Considering the need to act decisively on these violations, we request your comments be submitted no later than 30 days from the date of this letter, Attention: **Teresa Frame**, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida, or telephone 904-232-1677. Should you require additional time in which to respond, please advise.

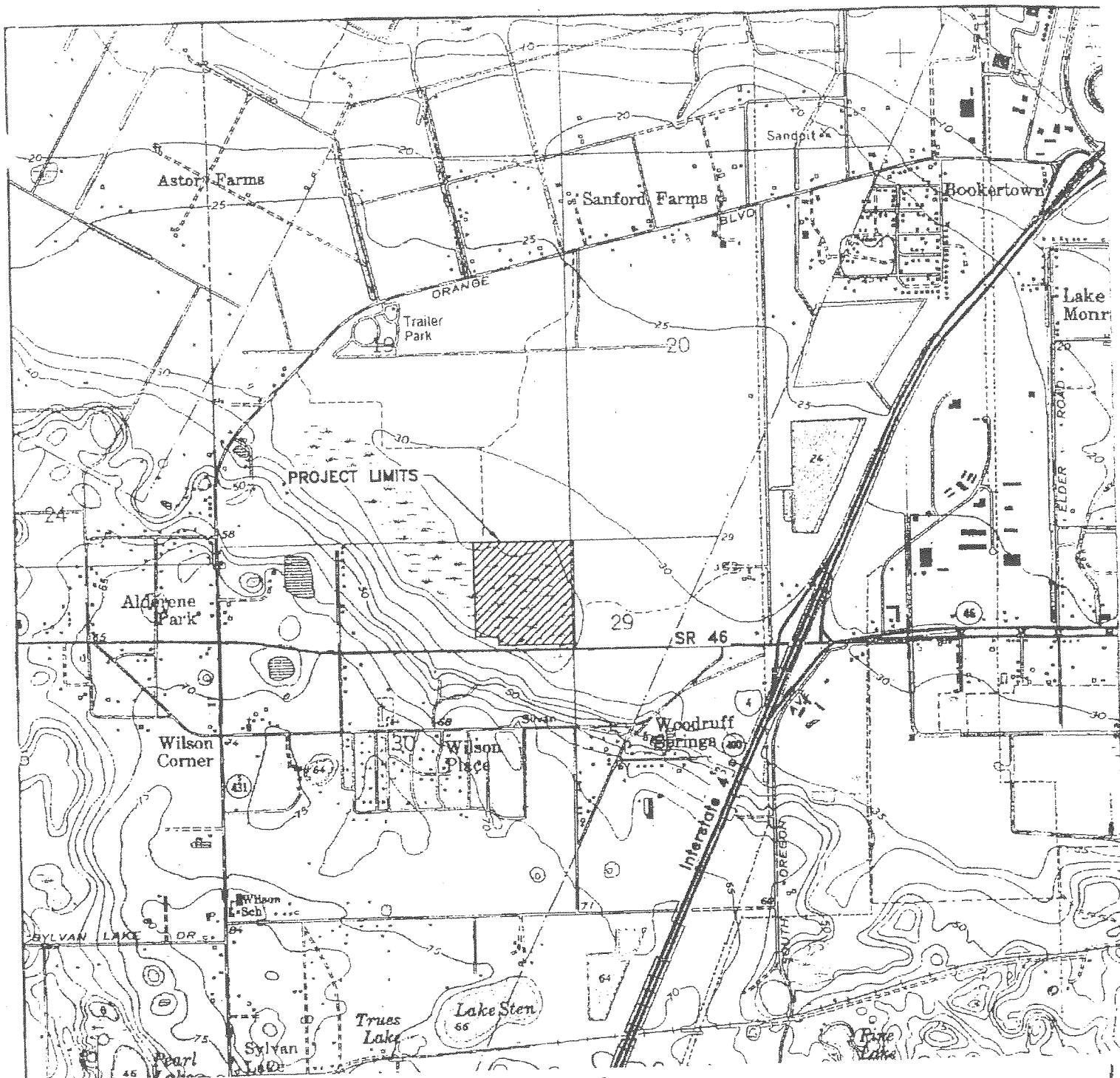
**96019-1**

**RECEIVED**

**JUL 12 2005**

**PDS**

**ALTAMONTE SVC. CTR.**

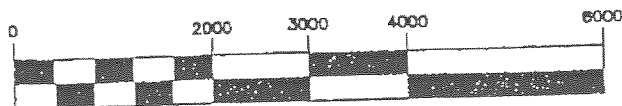


USGS Qaud Map 3911 (Sanford)

**Project Location**

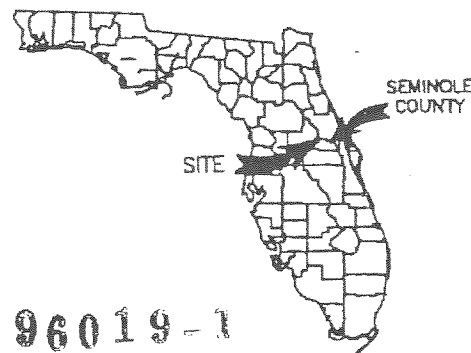
Section: 30  
Township: 19S  
Range: 30E

**GRAPHIC SCALE**



( IN FEET )

1 inch = 2000 ft.



96019-1

**RECEIVED**

LOCATION MAP

HATTAWAY PROPERTY  
S.R. 46

JUL 12 2005

PDS

ALTAMONTE SVC CORP

COE APPL # 2005-247  
DER APPL #  
DATE 10 Feb 05  
DRAWING PAGE 1 OF 17

PROJECT NO.  
04-0014.00  
DATE  
OCTOBER 20  
SCALE  
1" = 2000'  
Figure 1

Dyer, Riddle, Mills  
& Precourt, Inc.



**Principals**

Wayne D. Chalifoux  
Donaldson K. Barton, Jr.  
Lucius J. Cushman, Jr.  
Jon S. Meadows  
Stephen L. Precourt  
Lawrence L. Smith, Jr.

July 22, 2005

92019-1  
DRMP Job # 04-0014.000

Ms. Teresa Frame  
U.S. Army Corps of Engineers  
PO Box 4970  
Jacksonville, Florida 32232

**Subject: Response to Cease and Desist Order;  
Certified Mail # 700-1670-0010-0134-3676  
Hattaway Properties at SR 46  
Seminole County, Florida**

Dear Ms. Frame:

Mr. Hattaway has received a Cease and Desist Order from the US Army Corps of Engineers (ACOE) regarding mechanical clearing of forested wetlands and dredging and filling of waters of the United States at his 42.55 acre property located on SR 46 in Seminole County, Florida. On behalf of Mr. Hattaway, DRMP, Inc., presents the following information, in response to the ACOE Cease and Desist Order.

Mr. Hattaway has owned this property for almost 30 years. In that time, it has been maintained as an agricultural property. In May of 1984, Seminole County issued an Agriculture-Silviculture Exemption to allow the harvesting of trees from this property (exemption enclosed). In September of 1989, Mr. Hattaway entered into a contract with Growers Container Cooperative, Inc. to sell the timber from this lot (contract enclosed). There has been no additional timbering or mechanical clearing of this property since this transaction transpired. In 2000, Mr. Hattaway transitioned this property from silviculture to agriculture by installing a fence and purchasing cattle (contracts enclosed). It was at this time that the dredging and filling of waters of the United States occurred, as cattle ponds were dug to water the cattle. No additional dredging or filling of this property has occurred since the pond excavations. Because these activities occurred as part of an agricultural/silvicultural exemption, Mr. Hattaway maintains that he was unaware that either of these activities constituted a violation of state or federal dredge and fill permit requirements at the time that the activities were conducted. He has recently been informed by St. Johns River Water Management District that these activities were in violation of state Environmental Resource Permit requirements. To resolve this violation with the state, he has entered into a Consent Order agreement, in which he will pay a civil penalty and agree to acquire the necessary permits for the prior dredging and filling activities (Consent Order enclosed).

RECEIVED

JUL 27 2005

PDS  
ALTAMONTE SVC. CTR

1505 East Colonial Drive  
Orlando, Florida 32803  
Phone: 407.896.0594  
Fax: 407.896.4836

- Bartow, Florida
- Charlotte, North Carolina
- Chipley, Florida
- DeLand, Florida
- Ft. Myers, Florida
- Jacksonville, Florida
- Orlando, Florida
- Panama City Beach, Florida
- Tallahassee, Florida
- Tampa, Florida



*Ms. Teresa Frame  
U.S. Army Corps of Engineers  
Hattaway Properties @ SR 46  
July 26, 2005  
Page 2 of 2*

Mr. Hattaway now realizes that the clearing and dredging activities discussed in the ACOE Cease and Desist Order were not exempted under his agricultural/silvicultural exemption, and did in fact require a dredge and fill permit from the Department of the Army. He has no intention of performing any additional clearing, dredging, or filling within wetlands, and is committed to resolving this previous violation with the ACOE and EPA. As Mr. Hattaway's representative for this issue, please feel free to contact me with any questions or concerns, so that we may resolve this compliance violation to the satisfaction of all involved parties.

Sincerely,  
**Dyer, Riddle, Mills & Precourt, Inc.**

Doug Skurski  
Environmental Scientist II  
Ecological & Environmental Sciences

Enclosures

CC: Bob Hattaway  
Ronald Mikulak, EPA Atlanta  
Anthony Miller, SJRWMD Altamonte Springs  
George McLatchey, DRMP

**APPLICATION FOR AGRICULTURE-SILVICULTURE EXEMPTION  
TO ORDINANCE 76-8  
SEMINOLE COUNTY, FLORIDA**

DATE OF APPLICATION: April 26, 1984APPLICANT: Harry Kwiatkowski PHONE: 834-9355ADDRESS: c/o Bob Hattaway Investment Corp., P.O. Box 884, Altamonte Springs, FLLEGAL DESCRIPTION OF PROPERTY: Section 30, Township 19S, Range 30E,NE 1/4 of NE 1/4 (less subsurface and mineral rights), Parcel 1AZONING AG-A-150PURPOSE OF REQUEST: Propose to use property for the cultivation  
of ligustrum plants, wholesale only

I hereby request an exemption to Seminole County Ordinance 76-8. It is my intention to remove trees from the above described property in order that the lands may be converted to a bona-fide agriculture use. I fully understand that should this request be granted, upon removal of said trees, the property must be immediately converted into lands so used as to be qualified for agriculture taxation classification.

  
Signature of Applicant
SWORN TO AND SUBSCRIBED BEFORE  
ME THIS 15 DAY OF May.A. D. 19 84.
  
Patricia Ann Blackwell  
Notary Public,  
My Commission Expires:
Notary Public, State of Florida  
My Commission Expires Sept. 23,  
Bonded This Year For \$10,000.00, NC
  
WANDA GUEST  
Project Coordinator

**BOB HATTAWAY INVESTMENT CORP.**  
1001 SEMORAN BLVD. (HWY. 434)  
ALTAMONTE SPRINGS, FLORIDA 32701  
(305) 834-9355
**FOR OFFICE USE**FEE \$12.00 DATE RECEIVED \_\_\_\_\_ RECEIPT # \_\_\_\_\_ARBOR INSPECTOR'S RECOMMENDATION: ☒ APPROVED ☐ DENIEDREASONS AND COMMENTS: THIS EXEMPTION APPROVED BASED UPON THE  
APPLICANT'S STATEMENT THAT THE PROPERTY IS TO BE UTILIZED  
FOR A BONA-FIDE AGRICULTURAL USE. JUL  
5-4-84

## FAX MESSAGE

BOB HATTAWAY INVESTMENT CORP.  
601 HILLVIEW DRIVE  
P.O. BOX 150884  
ALTAMONTE SPRINGS, FL 32715-0884  
(407)875-8111  
FAX (407)875-1237

DATE September 27, 1989

TOTAL PAGES 5

TO: Harry Kwiatkowski

INQUIRY \_\_\_\_\_

FROM: Bob Hattaway

PLEASE CONFIRM \_\_\_\_\_

TO FAX # 839-3171

PLEASE ORDER \_\_\_\_\_

SUBJECT: Hwy. 46 property

RE YOUR REQUEST \_\_\_\_\_

ATTENTION: \_\_\_\_\_

Harry - Sign and fax the signed contract to the attention of Mark Elliott, fax  
# 904-787-9919., Growers Container Cooperative, Inc.

904-787-3579



TIMBER CONTRACT

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_\_, by and between Growers Container Corp., Inc. PO Box 135  
Leesburg, Fla 34749, Seller,

Purchaser; in consideration of the following promises and obligations  
owing each to the other:

1. Purchaser shall have the exclusive right to cut timber standing  
on the land described on Exhibit "A" hereto, together with the right  
of ingress and egress over adjoining lands of Seller for such purpose.  
Seller warrants that said timber is free of any encumbrances, liens,  
etc.

2. Purchaser shall harvest all merchantable timber in the species  
of pine, cypress and hardwood standing on such real property, and in  
consideration for its exclusive right to do so, Purchaser shall pay to  
Seller the following sums:

1000 Board ft

Hardwood veneer:	\$50.00/MBF	(Exhibit B - Log Scale)
Hardwood, other:	\$ 1.40/Ton	
Cypress	\$70.00/MBF	(Exhibit B - Log Scale)
Pine, pulp	\$ 3.80/Ton	
Pine, chip & saw:	\$ 5.00/Ton	
Pine, veneer	\$12.00/Ton	

Title to the timber shall pass from Seller to Purchaser upon its  
severance from the stump.

3. Payment of the foregoing sums shall be made to Seller weekly  
at the address aforesaid, for the previous week's logging. Each  
payment shall be accompanied by appropriate scale sheets detailing the  
results of the previous week's logging

4. Seller shall be responsible for obtaining any local permits  
necessary to allow the timber harvesting operation.

5. Purchaser shall be responsible for any damage caused to roads,  
fencing, etc. by the timber harvesting operation.

6. This agreement shall continue until all merchantable timber  
is removed from the property

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

Witnesses:

John J. Key  
John J. Key

Paul D. Smith <sup>7/12</sup>  
Seller

Paul D. Smith  
GROWERS CONTAINER COOPERATIVE  
INC.

EXHIBIT A

Property Description:

NE 1/4, of NE 1/4

Sec 30 T19S R30E

EXHIBIT B

	2	10	17	24	26	32	38	40	50	60	72	84	108	112	128	144	162	180	200	220	242
10	10	12	20	27	33	40	48	50	62	75	90	106	122	141	160	181	202	226	250	276	302
12	12	15	25	32	39	48	58	61	75	91	108	127	147	169	192	217	243	271	300	331	363
14	15	20	29	37	45	56	67	71	88	106	126	148	171	197	224	253	283	314	350	384	423
16	20	25	33	42	52	64	77	81	100	121	144	169	196	225	256	289	324	359	400	441	484
18	25	30	38	48	58	72	87	91	112	136	162	190	220	253	288	325	364	406	450	496	543
20	30	34	42	53	65	80	97	101	125	151	180	211	245	280	320	361	404	452	500	551	603
22	35	43	52	64	78	96	111	117	146	178	212	249	290	332	377	425	476	530	586	643	702
24	40	50	60	72	88	106	122	130	161	196	233	274	318	364	413	466	521	580	641	706	774
26	45	56	68	81	98	116	132	142	175	212	252	296	343	394	448	506	566	629	700	772	847
28	50	60	73	87	104	123	142	152	188	226	270	317	367	421	480	542	606	672	750	827	907
30	55	66	80	96	120	145	162	172	212	256	306	359	416	478	544	614	688	766	847	926	100
32	60	73	88	104	128	155	172	182	226	284	338	392	450	512	578	648	720	800	882	968	1052
34	65	80	96	112	136	164	182	192	236	296	352	406	466	528	594	666	740	820	904	992	1084
36	70	86	102	118	142	170	188	198	242	304	360	414	474	536	600	668	740	820	904	992	1084
38	75	92	108	124	150	178	196	206	250	312	368	422	482	544	608	676	748	824	908	996	1088
40	80	98	114	130	156	184	192	202	246	308	364	418	478	540	604	672	744	820	904	992	1084
42	85	103	119	135	162	190	198	208	252	314	370	424	484	546	610	678	750	826	910	998	1090
44	90	108	124	140	168	196	204	214	258	320	376	430	490	552	616	684	756	832	916	1004	1096
46	95	113	129	145	174	202	210	220	264	326	382	436	496	558	622	690	762	838	922	1010	1102
48	100	118	134	150	180	208	216	226	270	332	388	442	502	564	628	696	768	844	928	1016	1108
50	105	123	139	155	186	214	222	232	276	340	396	450	510	572	636	704	776	852	936	1024	1116
52	110	128	144	160	192	220	228	238	282	348	404	458	518	580	644	712	784	860	944	1032	1124
54	115	133	149	165	198	226	234	244	288	354	410	464	524	586	650	718	790	866	950	1038	1130
56	120	138	154	170	204	232	240	250	292	360	416	470	530	592	656	724	796	872	956	1044	1136
58	125	143	159	175	210	238	246	256	298	366	422	476	536	598	662	730	802	878	962	1050	1142
60	130	148	164	180	216	244	252	262	304	372	428	482	542	604	668	736	808	884	968	1056	1148
62	135	153	169	185	222	250	258	268	310	378	434	488	548	610	674	742	814	890	974	1062	1154
64	140	158	174	190	228	256	264	274	316	384	440	494	554	616	680	748	820	896	980	1068	1160
66	145	163	179	195	234	262	270	280	322	390	446	500	560	622	686	754	826	902	986	1074	1166
68	150	168	184	200	240	268	276	286	328	396	452	506	566	628	692	760	832	908	992	1080	1172
70	155	173	189	205	246	274	282	292	332	402	458	512	572	634	698	766	838	914	998	1086	1178
72	160	178	194	210	252	280	288	298	338	408	464	518	578	640	704	772	844	920	1004	1092	1184
74	165	183	199	215	258	286	294	304	342	414	470	524	584	646	710	778	850	926	1010	1098	1190
76	170	188	204	220	264	292	300	310	348	420	476	530	590	652	716	784	856	932	1016	1104	1196
78	175	193	209	225	270	298	306	316	354	426	482	536	596	658	722	790	862	938	1022	1110	1202
80	180	198	214	230	276	304	312	322	360	432	488	542	602	664	728	796	868	944	1028	1116	1208
82	185	203	219	235	282	310	318	328	366	438	494	548	608	670	734	802	874	950	1034	1122	1214
84	190	208	224	240	288	316	324	334	372	444	500	554	614	676	740	808	880	956	1040	1128	1220
86	195	213	229	245	294	322	330	340	378	450	506	560	620	682	746	814	886	962	1046	1134	1226
88	200	218	234	250	300	328	336	346	384	456	512	566	626	688	752	820	892	968	1052	1140	1232
90	205	223	239	255	306	334	342	352	390	462	518	572	632	694	758	826	898	974	1058	1146	1238
92	210	228	244	260	312	340	348	358	396	468	524	578	638	700	764	832	904	980	1064	1152	1244
94	215	233	249	265	318	346	354	364	402	474	530	584	644	706	770	838	910	986	1070	1158	1250
96	220	238	254	270	324	352	360	370	408	480	536	590	650	712	776	844	916	992	1076	1164	1256
98	225	243	259	275	330	358	366	376	414	486	542	596	656	718	782	850	922	1000	1084	1172	1264
100	230	248	264	280	336	364	372	382	420	492	548	602	662	724	788	856	928	1006	1090	1178	1270
102	235	253	269	285	342	370	378	388	426	498	554	608	668	730	794	862	934	1012	1096	1184	1276
104	240	258	274	290	348	376	384	394	432	504	560	614	674	736	800	868	940	1018	1102	1190	1282
106	245	263	279	295	354	382	390	400	438	510	566	620	680	742	806	874	946	1024	1108	1196	1288
108	250	268	284	300	360	388	396	406	444	516	572	626	686	748	812	880	952	1030	1114	1202	1294
110	255	273	289	305	366	394	402	412	450	522	578	632	692	754	818	886	958	1036	1120	1208	1300

ABOVE TABLE EXCLUDED THE 12TH LINE AT 22 FEET  
 12TH LINE AT 22 FEET  
 12TH LINE AT 22 FEET



**TALLEY WOOD PRODUCTS, INC.**  
P.O. Box 817 Leesburg, Florida 32749-0817

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(904) 787-3579

October 10, 1989

Mr. Bob Hattaway  
601 Hillview Dr.  
Altamonte Springs, FL 32714

Dear Bob:

Enclosed is the check for the logs removed from the land located on 46 west of I-4. You'll note that there are three weight tickets and three scale tickets attached. As a rule we buy our timber by scale (top diameter and length of log equals a certain amount of board feet) however, pine is normally purchased by weight. Our loggers should have separated the hardwood from the pine, instead they mixed both on the loads. To get the weight of the pine alone, we had to reload on one of our trucks and weigh them separately. This is why there are six tickets from three loads of wood. All future loads should be separated properly and we will not have to go through this expensive procedure.

If you have any questions please feel free to call John Talley or myself.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark O. Elliott".

Mark O. Elliott  
Forester

**Growers Container Cooperative, Inc.**

P. O. Box 1355 • Leesburg, Florida 32749-1355

Sun Bank, N.A.  
Downtown Office  
Orlando, Florida63-638 215  
631

04709

OCT 6 19 89

EXACTLY 7218 CTS

PAY

DOLLARS \$ 721.81

TO THE  
ORDER OFBOB HATTAWAY  
601 HILVIEW DRIVE  
ALTAMONTE SPRINGS, FL 32714GROWERS CONTAINER COOPERATIVE, INC.  
CONTROLLED DISBURSEMENT ACCOUNT

⑈004709⑈ ⑈063108389⑈0215252036097⑈

## DETACH AND RETAIN THIS STATEMENT

THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW. IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.

## GROWERS CONTAINER COOPERATIVE, INC. - CONTROLLED DISBURSEMENT ACCOUNT

DATE	DESCRIPTION	AMOUNT
10-06-89	STUMPAGE LOVETT BROTHERS	
	4,181' H/W To Leesburg @ 50.00 6201-200	209.05
	42.730T Pine To Leesburg @ 12.00 6201-200	512.76
		721.81

07-24-98 15:50  
JUL-24-98 FRI 15:50 SMITH RANCH

407 2827886

P.01

## ALLEN E. SMITH CONSTRUCTION SERVICES, INC.

P.O. BOX 720220  
ORLANDO, FLORIDA 32872  
TELEPHONE 407-282-7887

To: Bob Hattaway

From: Allen Smith

Re: 46 Property

Date: July 24, 1998

Scope of Work: Shear and clear cut where possible using a John Deere 643 Feller Buncher. Additionally, have back-up equipment on hand to assist the 643 when it gets stuck.

Hourly Charge: The hourly charge for this project is \$125.00 per hour. This includes the 643 Feller Buncher, operator, fuel, transport to the site and a back-up 170 Franklin Skidder.

Hours: The equipment hours thru 5:30 P.M. July 24, 1998 total 114.5

Invoice Amount: \$14,312.50

Jan 07 00 02:50p

smith ranch

407 2827886

p.1

To: Bob Hattaway

From: Allen Smith

Re: Fence 46 Property

Date: January 7, 2000

Scope of Work: Clear fence line with backhoe and erect fence on the east and south sides of the property.

1,000 ft. South side @ \$2.00/ft.	\$2,000.00
1,400 ft. East side @ \$2.00/ft.	2,800.00
48 hrs. Backhoe @ \$85.00/hr.	4,080.00
1 16' gate installed	125.00
Transport	<u>320.00</u>
Total	\$9,325.00

Thank you.



03/03/00

14:29

407 2827886

Mar 03 00 03:24p

smith ranch

407 2827886

p. 1

To: Bob Hattaway

From: Allen Smith Ranch & Farming

Re: 46 Property

Date: March 3, 2000

Complete fence for entire site:

2,820 Ft. barbwire fence @ \$2.00/Ft.

\$5,640.00

800 Ft. field fence @ \$4.00/Ft.

3,200.00

Backhoe

2,500.00

Total

\$11,340.00

Hoe, Loader & Dozer work 2-25 thru 3-2

Dozer 35.5 Hrs. @ \$85.00/Hr.

\$3,017.50

Loader 35 Hrs. @ \$75.00/Hr.

2,625.00

Hoe 27.5 Hrs. @ \$95.00/Hr.

2,612.50

Total

\$8,255.00

Grand Total

\$19,595.00

Thank you.

12/06/00 16:23

407 2827886

Dec 06 00 05:12P

smith ranch

407 2827886

P.1

To: Bob Hattaway

From: Allen Smith

Re: 46 Property

Date: December 6, 2000

Purchase 12 steers for 46 property	\$4,800.00
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Transport steers to property (2 trips)	<u>400.00</u>
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Amount to be reimbursed	\$5,200.00
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Thank you.

## ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

IN RE:

Hattaway Properties at S.R. 46 )  
Permit No. 4-117-96019-1 )  
ATTN: Bob Hattaway )  
Bob Hattaway Investment Corp )  
601 Hillview Dr Ste 105 )  
Altamonte, FL 32714 )

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F.O.R. 2005-27

### CONSENT ORDER

THIS CONSENT ORDER is entered into between the St. Johns River Water Management District ("District") and Bob Hattaway Investment Corp ("Respondent") to settle certain matters at issue between them under Chapter 373, Florida Statutes (F.S.), and Chapter 40C-4, Florida Administrative Code (F.A.C.).

### FINDINGS OF FACT

1. The District, a special taxing district created by Chapter 373, F.S., is specifically authorized to administer and enforce the permitting programs established pursuant to Sections 373.413 and 373.416, F.S. The District has implemented these programs in part through promulgation of Chapter 40C-4, F.A.C.
2. Respondent owns or controls approximately 42.55 acres of real property in Section 30, Township 19 South, Range 30 East, Seminole County, Florida, known as Hattaway Properties at S.R. 46 (the "Property") that is proposed to be developed as a mixed use project.
3. On October 22, 2004, the District received Environmental Resource Permit Application number 4-117-96019-1 (the "Permit"), from the Respondent,

to request conceptual approval of a mixed-use multi-family residential and commercial development within the 42.55-acre site. A conceptual approval permit does not authorize construction. The proposed conceptual approval would include 35.92 acres of wetland impacts and a mitigation plan.

7. On April 22, 2005, District compliance staff reviewed the proposed project and evaluated historical aerial photographs of the site. This review of site conditions indicated that wetlands on the site were cleared and converted to pasture, and five small cattle watering ponds totaling 1.1 acres were excavated in the converted wetlands pasture. Review of the information in the file further indicated that approximately 0.9 acres of wetlands pasture was filled with the spoils generated during excavation. This activity was conducted prior to any permit application being submitted to the District and was unauthorized.

8. The conceptual approval permit application provides a mitigation plan for the unauthorized impacts. During the permit review process, mitigation requirements were assessed by the District based on the previolation condition of the wetlands.

9. On April 29, 2005, District staff met with Respondent and his agents. Respondent agreed to enter into a consent order to resolve this violation.

#### CONCLUSIONS OF LAW

10. The District has jurisdiction over Respondent, the subject property and project site, and the construction activities thereon. See Sections 373.069(2)(c), 373.413 and 373.416, F.S.

11. Respondent's construction activities on the Property prior to obtaining the required permit constitutes a violation of Chapter 373, F.S., and Chapter 40C-4, F.A.C. Section 373.430(1), F.S. and Section 40C-4.381, F.A.C.

12. The District is authorized to commence a cause of action in circuit court and seek a civil penalty in an amount not exceeding Ten Thousand Dollars (\$10,000.00) per offense per day for violations of Chapters 373, F.S. See Section 373.129(5), F.S.

13. The District is authorized to recover investigative costs and reasonable attorney's fees expended in the enforcement of its programs and those delegated to it. See Section 373.129(6), F.S.

#### CORRECTIVE ACTION

14. Respondent shall not undertake any further construction or any further dredging or filling on the subject property until it has fully complied with Condition 25 of the Permit.

15. Respondent agrees to pay a settlement penalty of Eight Thousand and 00/100 Dollars (\$8,000.00) due to the violations of Chapter 373, F.S. and Chapter 40C-4, F.A.C. Respondent also agrees to reimburse the District for investigative costs and attorney's fees incurred by the District in resolving this matter in the amount of \$346.64. Respondent shall deliver to the District a cashier's check or money order in the total amount of Eight Thousand Three Hundred Forty Six Dollars and 64 Cents (\$8,346.64), payable to the St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, within ten (10) days of rendition of this Consent Order. Any sums unpaid within the time frame provided herein shall bear interest at the rate of 1.5 percent per month until paid.

16. Respondent shall apply for an Environmental Resource Permit to authorize the construction that has occurred on site within 90 days of rendition of this Consent Order and shall expeditiously submit all information requested by the District during the permit review process. Mitigation proposed for the unauthorized impacts shall be consistent with the approved conceptual permit and shall be implemented

within 30 days of issuance of the Environmental Resource Permit authorizing construction.

16. Should Respondent fail to submit the application or if the respondent fails to obtain the required Environmental Resource Permit by withdrawal of the application or denial by action of the District's Governing Board, Respondent shall submit a restoration plan within 30 days of such failure to restore the unauthorized impacts to the pre-violation condition and shall complete such restoration within 180 days of withdrawal of the application or District denial of the application.

17. Respondent agrees to pay the District stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the actions contained within paragraphs 15 and 16 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the District, Respondent shall make payment of the appropriate stipulated penalties to the District. Payment shall be by a cashier's check or money order made payable to the St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529. Any sums unpaid within the time frame provided herein shall bear interest at the rate of 1.5 percent per month until paid. The District may make demands for payment at any time after violations occur. If the District is required to file a lawsuit to recover stipulated penalties under this paragraph, the District will not be foreclosed from seeking civil penalties for violations of this consent Order in an amount greater than the stipulated penalties due under this paragraph.

18. The District agrees for and in consideration of the complete and timely performance of the obligations set forth herein that entry of this Consent Order is dispositive of the violations contained herein, and the District waives its rights to seek

judicial imposition of damages or civil or criminal penalties for the violations contained herein.

19. By executing this Consent Order, Respondent waives its right to judicial review or an administrative hearing on the terms of this Order and waives its rights, including defenses, under section 120.69, F.S.

20. The District expressly reserves the right to initiate appropriate legal action to prohibit any future violations of Chapter 373, F.S., or the rules of the District.

21. Respondent shall allow all authorized District representatives access to the subject property at reasonable times for the purpose of determining compliance with the terms of this Consent Agreement.

22. Performance of the terms of this Consent Order does not relieve Respondent of any need to comply with applicable federal, state, or local laws, rules or ordinances. In addition, the rights of substantially affected persons as defined in Chapter 120, F.S., who are not parties to this Order, are not abrogated by matters agreed to herein.

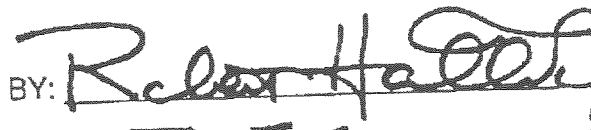
23. This Consent Order will become effective after rendition (filing) by the District Clerk, which will occur after its execution by Respondent and the Executive Director on behalf of the District.

24. Upon rendition, this Consent Order will constitute a final administrative order of the District, and the terms and conditions set forth herein may be enforced in a court of competent jurisdiction pursuant to Chapter 373.129 and 120.69, F.S.

25. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the District.

RESPONDENT  
Bob Hattaway Investment Corp.

July 15-05  
DATE

BY:   
TITLE: TRUSTEE

ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
KIRBY B. GREEN, III  
EXECUTIVE DIRECTOR

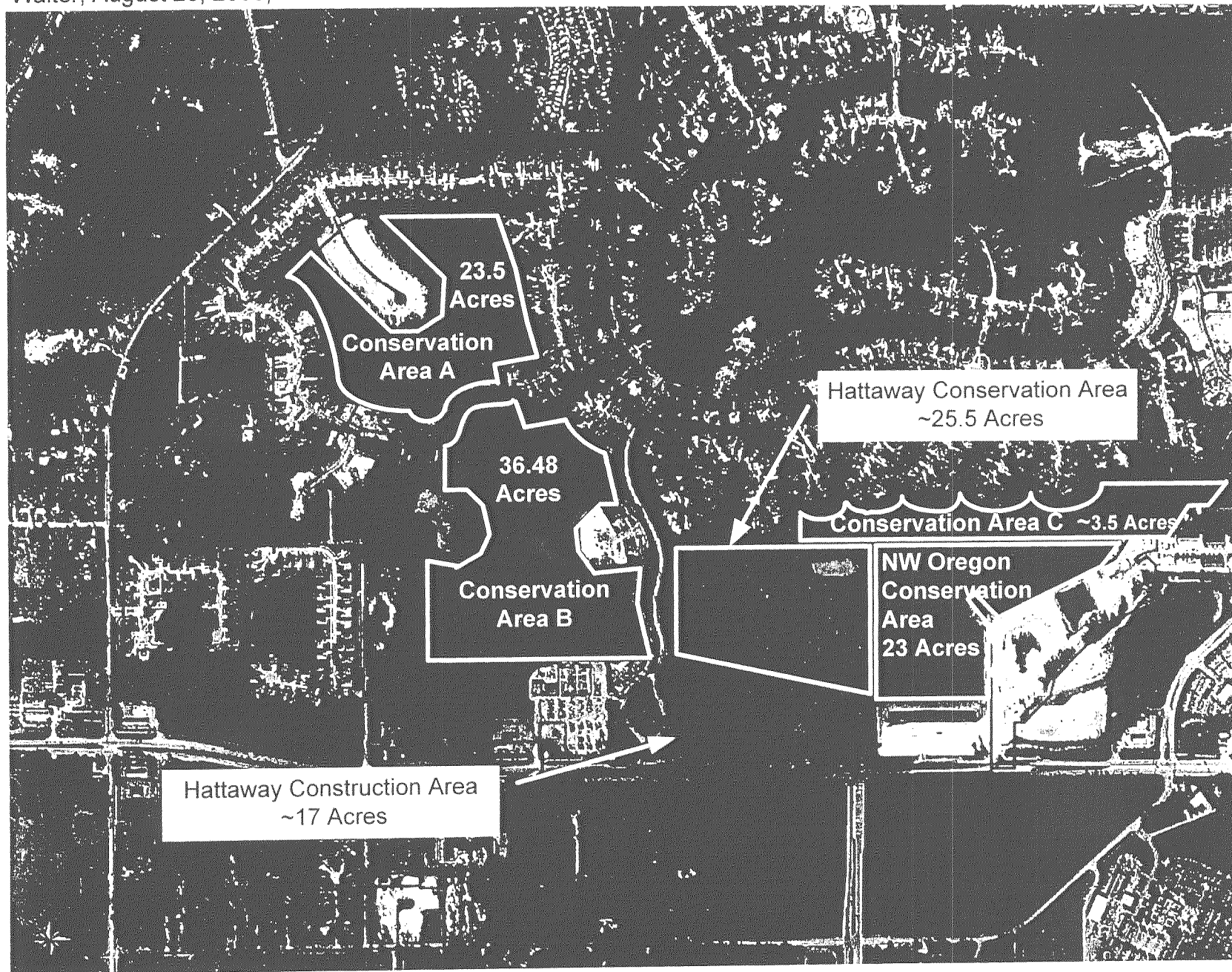
RENDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
SANDRA BERTRAM  
DISTRICT CLERK

Copies to:

Janice Unger  
William Carlie





PROPOSED SITE PLAN "A" FOR HATTAWAY PROPERTY  
CONNECTS CONSERVATION AREAS ON EACH SIDE TO MAINTAIN A CONTIGUOUS AREA